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>> Mayor Reed: Good morning. I'd like to get our city council meeting started. Okay, got six. Good morning. [Gavel]

>> Mayor Reed: We need to get the city council meeting started. Please take a seat. We got plenty of chairs. We'll start this today's meeting as usual, with the labor update. Then we will adjourn into closed session and we will come back in open session here at 1:30. So for the labor update I think Gina is going to start that.

>> Gina Donnelly: Good morning, mayor members of the city council. Gina Donnelly deputy director employee relations. And just a reminder to everyone as we do every week all the documents we will be discussing this morning are available on the employees relations Website and can be accessed online. Be starting our update this morning with retirement reform. First we want to go over the SRBR proposal that we received from ALP. We did receive this two weeks ago and we did provide an update last week. We did receive some clarification last week during bargaining that the proposal would be that retirees would no longer receive a disbursement of SRBR funds but any excess earnings normally set aside for SRBR would be put towards retiree health care liability. And moving on to the nonmanagement retirement coalition of ABMEI CEO IBE OE3 and MEF, we received the coalition's proposal via e-mail over the weekend. This is a summary of our understanding of their proposal based on the document itself which you also have in front of you this morning. We will have an opportunity to seek additional information and clarification at our negotiation session scheduled for tomorrow afternoon. This is an opt in proposal, it is for a 2% formula, minimum age 60 or at any age after 30 years of service. Final average salary calculated based up on the average highest 36 months, a cola based on CPI capped at 3% and eliminating of SRBR. The cost sharing is unchanged from the status quo of 8 to 3 for the normal cost and the unfunded liability 100% borne by the city. And finally they have included a place holder for incentives but did not conclude any specific proposals on what those incentives might be or what they might cost. And now I'll turn it over to Alex to discuss local 230 and POA's proposal amendments.

>> Alex Gurza: Good morning, mayor members of the council, Alex Gurza deputy City Manager. We have received yesterday some amendments to the proposals made by the police officers association and San José firefighters Local 230. It was made during our bargaining session yesterday afternoon. The written proposal is

before you and also posted on the Internet. The amendments are in three areas. The first is their proposal on workers compensation reform. They had previously proposed to implement the Long Beach model for workers compensation dispute resolution. The amendment is simply that they have now proposed it to apply to all of the tiers current and future employees. Secondly, they have proposed to proceed with asking Cal PERS to conduct a valuation, related to their proposal that current and new employees go into PERS, current employees having an option to go to PERS, and new employees going into PERS and they have proposed to pay up to \$5,000 to Cal PERS, what Cal PERS charges for the cost of completing the new agency valuation. The unions were clear to say that their request on proceeding with the costing stands alone and that it would have no impact on any other processes surrounding these issues. And that they are not suggesting that there be any time line changes. And we mean by time line the negotiations are due to conclude with Police and Fire on October 31st. And then lastly, related to SRBR, their previous proposal included eliminating SRBR for employees who opt in and for future employees. What they're indicating now is tier 1 employees or current employees will be the subject to the outcome of bargaining between the city and the bargaining units. And that concludes our presentation this morning.

>> Mayor Reed: Thank you. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I had a question on the Cal PERS valuation. Is there any cost to the city? Is that a match?

>> Alex Gurza: Well, there's a question as to what Cal PERS would actually charge. They have revised their fee schedule and they are indicating for new agencies it would be \$3,000. So if it's \$3,000 then the unions would be paying the whole amount. What we have to clarify is whether there are multiple charges, whether they would charge both for valuing Police and Fire separately in which case it could be \$6,000. But their intent was in our discussions yesterday that the unions would pay the entire cost that Cal PERS charges but it comes down to what the ultimate cost is to Cal PERS. If it's less than 5,000 they would be paying the entire cost.

>> Councilmember Rocha: Is there any staff time associated with our part or retirement services department?

>> Alex Gurza: Yes, well there is some yes. Because in order to conduct a valuation, one of the things that Cal PERS needs is all of the valuation data or the demographic data. So they would need to receive from the retirement system the data similar to what an actuary has. Every employee, their age, years of service, salary all that kind of information and what we don't know yet is whether or not they -- we'd actually have to fill out any kind of application. There's a new member application forms and things like that. So there's some time. But most of the work is done -- would then be done by Cal PERS once we get them the information.

>> Councilmember Rocha: Mayor are you moving to public testimony?

>> Mayor Reed: Have some cards. We'll be moving to public testimony. We're going to adjourn into closed session we will not be discussing the bargaining position in open session. That's not what we do. We have that for closed session. But you're welcome to put your card in to speak. I have a lot of people who want to speak, fortunately it's not all the people, but I am going to limit to one minute. We have to go into closed session to do our work and Robert Sapien. Brett Jervasoni and Jason Schaeffer.

>> Good morning. Mayor and council, my name is Robert Sapien, president of San José firefighters local 230. As president, of this union, I represent real people. Professionals, highly skilled, capable, caring, compassionate. They do an excellent job for the city. They are also heads of their households where they are parents to their children, teachers to their children. Mortgage holders. Real people just like everyone else. And I think it's important you hear from them. More importantly, I think it's important you treat them fairly. With dignity and respect. Something that seems to have evaporated from this city. It's time with regard to pension reform, that you get real. Thank you.

>> Mayor Reed: Brett Jervasoni Jason Schaeffer and Scott Trotter.

>> Brett Jervasoni, fire phs born and raised in Councilmember Herrera's district now I'm going to serve there and protect the citizens there and I must say I'm a little saddened by some of your lack of support for us and especially

with this measure going forward. I hope we'll get something from you that will help us move forward in this, especially being from your area. It's hard for me to come up here and have to justify and beg for my worthiness to the city and what I deserve. What I do on a daily basis here. I don't think anybody else sitting back behind that bench there does, the emotional and physical scars that we keep in our bodies and in our minds from pulling children out of fires, I don't know if any of you have done that, having to pick up body parts on 280 after a horrific accident, I don't think any of you have done that. That is some of the mental pictures that will be with me for my whole life and have this proposal of --

>> Mayor Reed: Time is up. Next speaker is Jason trotter, nancy Ostrowsky.

>> Councilmembers my name is Jason trotter I'm a fire engineer I've been in the city now for close to eight years. I am my head of household. I support a wife, two kids, and a mother-in-law. A lot of the proposals that have been brought forth to you in the past, we all understand that, that times are tough. We all understanding that the city is under financial stress and burden. A lot of that reflects on the services that we provide. I'm true believer that you know your Police and Fire departments are the reasons that cities were brought together and are kind of the sole basis of where the funding should go. We're not asking for raises. We're not asking for anything crazy. I think a lot of the things that are brought forth to you are within reap and should be definitely considered. I too am saddened by some of the decisions that have to be made and I do understand that there are sacrifices that have to be done I just wish that --

>> Mayor Reed: Sorry your time is up. Scott trotter Nancy Ostrowsky, Brian Bolochucq.

>> Good morning council of, Scott trotter, been a firefighter for 17 years and I came here with a great deal of pride to be associated with the City of San JosÉ. And I still have a pride for the city in which I work and for the citizens, and going out there and put my uniform on every day and hop on that fire engine, grateful for the job that I get to do, and for who I get to do it with. As enjoy in and out of the citizens homes and help them with everything I have within me. I work with men and women in this fire department who give 110% day in and day out. And for the first time in 17 years, I people disrespected by my employer. Not by the citizens. But by my employer. And the way

that we are being treated as though we're bringing things to the table that are not fair. But instead asking please bargain in good faith with us. Please with the kinds of things that we're bringing forward, help me.

>> Mayor Reed: Sorry your time is up.

>> To support my family and continue.

>> Mayor Reed: Nancy Ostrowsky. [applause]

>> Nancy Ostrowsky, IFPTE local 21 and outside legal advisors, although I should call them policemen advisors because they are not giving you good legal advice. They both are providing you a false choice. You are being told to vote for pension reform as they have proposed it. When they and many of you know that the courts are going to rule against major portions of your ballot measure, and the IRS will never approve your plan. What does this mean in practical termination? It means that each employee will be paying 50% of the unfunded liability. Their take home pay will be cut by half or more than half and no retirement reform will be enacted. Hey but maybe that's your game plan. Maybe that will allow you to implement the Russell Crosby plan and caught 800 totally useless city workers and give him and upper management raises. There is a better way.

>> Mayor Reed: Sorry your time is up. Next speaker is Brian Toloderchek, Brian will be followed by Eric Hernandez and Harold monitor.

>> My name is Brian Toloderchek i'm also a proud member a union member of locality 230. I stand before you this morning and ask you to reconsider the incredible effort put forth by several unions to help this city in the form of our pension and twiermd are reform proposal. The savings has over \$400 million of savings in it. You have asked the we have we have given the 10% in total compensation that you asked for. We have increased our health care cost we have agreed to prefund health care retirement cost we have agreed to everything you have asked. It is very clear to me now that this city has no intention of bargaining in good faith with all the locals. The rush is on to put this ballot measure on before the well intentioned but misguided employees will have no choice

but to seek employment wrels as they will not be able to make ends meet. This is not a threat it is just a faculty. No matter how much we continue to be vilified by this administration I want to reiterate that I am still a proud San JosÈ --

>> Mayor Reed: Sorry your time is up. Eric Hernandez. [applause]

>> Mayor Reed: Followed by Howard Morton and Matt Kelly.

>> Good morning council mash my name is Eric henders. I've I've been a firefighter for the City of San JosÈ for 17 years oath I gave 17 years ago. This unamerican. these private agendas fall short of integrity and everything from which this country has been founded. Our unions our families have given rather significant concessions to meet the shortfalls of the city. We have offered a progressive solution to an unhealthy solution. I feel it is forthright. If you support this act of moral turpitude you will dissolve all that is America. You will reinforce the grounds in which this country now stands divided. Make your own footprint in history, I urge you to work with our unions, collectively for a better future for our city its citizens and its employees. This is my family. This is my family. Help me. [applause]

>> Mayor Reed: Howard Morton. Matt Kelly and then Michael Patterson.

>> Good morning, councilmembers, my name is Howard monitor. I live in district 10 I was gix a piece of paper by the union to read to you but all of the things I have on here you already know. The last line really caught my attention, I'll read that to you. I used to be proud that I live in the seen by you as nothing more than liabilities on a balance sheet. Only to be discarded when political gain outweighs common sense. You've heard that from every speaker who has come up here already and I strongly agree with every one of them. [applause]

>> Mayor Reed: Matt Kelly followed by Michael Patterson and Rich Reagan.

>> Good morning mayor and council. My name is Rich Reagan. I knew the job had risks when I signed on and I was more than willing to accept those risks to protect the City of San José. Including my neighbors and relatives. I had -- I was falsely led to believe that the city would take care of my family and myself. The city is in financial difficulties, so my family and I did what we could. I gave 10% of my pay to help you balance the budget. I watch you reduce staffing, to help balance the budget. I agreed to pay more for my medical to help balance the budget. And now, I'm watching you opt for an illegal ballot measure which will end up costing the city millions in legal battles years to come. All this when there's an honest offer of retirement reform which will save hundreds of millions of dollars and is completely [applause]

>> Mayor Reed: Michael Patterson, followed by Rich Reagan and Steve Osten.

>> Good morning my name is Michael Patterson. I'm a firefighter for the City of San José, Yerba Buena high school in Councilmember Nguyen's district. I care very deeply about the citizens that I've had the proud opportunity to serve and the people that I work with in the City of San José. We've offered you legal retirement reform which is real money out of our pockets that will affect our family. It's been tough for me, to have been raised in this city and see what's come the last 14 years. I spent ten years in two other fire departments striving to come to the City of San José and I've been extremely disappointed in the last few years to see where this city has come to and especially in the most recent days to feel how I'm disrespected as an employee of the City of San José. I love the opportunity to work here. I love the people that I work with. My family members away from home and within the city. I ask you to not push this illegal ballot measure forward, to continue to work with the locals, so we can offer you reform.

>> Mayor Reed: Sorry your time is up, Rich Reagan is the next speaker followed by Steve Osten and then Scott Akaman.

>> Blong. My name is Rich Reagan, I've been a firefighter for 17 years best job we can and most recently we agreed to do what we could to help with the city's financial situation. We realize the situation that we are in. We agreed to 10% total comp pay reduction. We've agreed to reduce staffing and we agreed to shoulder more of the

cost of health care reform and now we are offering a fair and decent retirement proposal that would save hundreds of millions of dollars only to be rejected by an illegal ballot measure. So I'm disappointed that you don't bargain in good faith. In the direction that the leadership of the city is pointing us towards. Thank you. [applause]

>> Mayor Reed: Steve Osteen, followed by scok Akaman and Nelson Rodriguez.

>> Hi, city council, Mayor Reed, City Manager Figone. Mayor Reed you and I met when you were jogging in Alviso when you first entered into the political arena. I remember you as a different person then. I would just like to give you my two cents today. Steve Osteen San JosÈ fire department retired. Stop putting the health and welfare of the citizens of San JosÈ at risk, please! Cutbacks caused delayed response times and people lose their lives and their property as a result. Cities and counties surrounding San JosÈ are doing well. San JosÈity administration in my opinion is simply overspending. stop the overspending. No amount of cutbacks can correct for overspending. Waging war against labor is costly, and irresponsible use of taxpayers dollars. And it puts the taxpayers at significant increased risk. Cutbacks defy protection --

>> Mayor Reed: Sorry your time is up.

>> Thank you for your time Mayor Reed.

>> Mayor Reed: Scott Akeman [applause]

>> Mayor Reed: Followed by Nelson Rodriguez and Tony McEllen.

>> My name is Scott Akeman I'm a fifther here in the City of San JosÈ, I've deliver on the promise that I made when I started working here as a San JosÈ firefighter I work hard and make great sacrifices. I'm always prepared to take personal risk. And I have. I'm called on to make decisions that can cost or save the city millions of dollars. In a single decision. The city is struggling with finances. I've been here with my fellow firefighters offering to help. We've taken a 10% cut in pay. We have given an additional 10% to our retirement. We continue to help

any way we can. By rejecting our proposal you have shown me that I'm not a valued employee of the City of San José. Your ballot measure will do nothing to improve the citizens in this city. To say the least I'm disappointed by your actions. [applause]

>> Mayor Reed: Nelson Rodriguez. Followed by Tony McAllen and David Scosa.

>> My name's Nelson Rodriguez. San José fire department. Been here for ten years now. And I hope all that and what we say here at the ballot or the podium is a reflection on what we really -- what's going on in here in this city. If you can't tell, we are very passionate about what we do and I hope that it's clear to you guys. I almost can't speak out here because I'm enraged inside. It kills me to come to work to think that there's no support for us and I don't understand it. Thank you for your time.

>> Mayor Reed: Tony McAllen, [applause]

>> Mayor Reed: Followed by David Scosa and Dennis Wheeler.

>> Good morning, mayor and council, my name is Tony Magellion I'm a firefighter for San José living in council district 10. City's in financial difficulty so we did what we could. We gave 10% of our pay back to help balance the budget. We watched you reduce staffing to help balance the budget. We agreed to pay more for medical to help balance the budget now we're watching you opt for an illegal ballot measure which will end up costing the city millions in legal fees for years to come retirement reform which will save hundreds of millions of dollars and is completely legal. Your actions are baffling and hard to comprehend. You should be ashamed of the actions you're taking thank you.

>> Mayor Reed: David Sosa, followed by Dennis Wheeler and pooh Pete Roman.

>> My name is David Scoca I'm a fire engineer and a member of the San José fire department for 14 years. I'm here before you to implore you to rethink what you as councilmembers are going to embark on when it comes to

pension reform. I ask you to please reconsider on keeping negotiations open, with all unions involved. We can come up with a solution but we know that it's not going to happen overnight. This is not only effect us as individuals put our families. With what you propose will be Tet rimental to each and every one of us but always remember we are professionals. And we will continue to be professionals when the citizens call and ask us for their help. So as council please be professional also, and please work with us. Thank you. [applause]

>> Mayor Reed: Dennis wheeler, followed by Pete Roman and Kay Denise McKenzie.

>> My name is Dennis wheeler, I've been a San JosÈ firefighter for 12 years and I'm very proud of the work I do and the people that I work with. I have to say that what you've proposed in your ballot measure is unfair, it's illegal, and it's incredibly irresponsible. If this ballot measure passes, you guarantee that it will go to the courts, and will end up costing millions of dollars in legal fees. So how can you consider that that's fiduciarly responsible, you have you're -- I'm just so upset with you that you would take such a measure, when we have provided a -- a good alternative. I've already given up from my wages 8% as a paramedic, another 10% in wage concessions, and what we've offered you is a valid usable measure.

>> Mayor Reed: Sorry your time is up. Pete Roman.

>> Thank you for your time.

>> Mayor Reed: Kay Denise McKenzie and then Scott Koontz.

>> Good morning, my name is Pete Roman some San JosÈ fire captain, direct of San JosÈ for 18 years. A once proud resident of San JosÈ I must say. My city, my family uses the services of the city daily, parks, libraries, I'm appalled where the city's gone. This isn't the city I moved into 18 years ago. As a citizen I expect our services to be there, police, fire, they're lacking. We as a local, we gave you what you wanted. We negotiated in good faith to find solutions and yet you reject them. As a parent of three kids, how am I to teach them the lessons of valuing

people when the city that I work for fails to value its employees? I can't. The question comes to me: When did the need for reform become a crusade against the employees? Thank you.

>> Mayor Reed: Kay Denise McKenzie. [applause]

>> Mayor Reed: Fold he by Scott coots and colleen mull Holland.

>> Mayor Reed: Glps president of CAMP IFPTE local 21. I'm here for two reasons today, CAMP, AEA and maps and does so legally. However the disregard shown for our efforts has been demonstrated in numerous ways that I will not cover today. The other reason for my presence is to address the e-mail from retirement services director Russell Crosby to councilmember Sam Liccardo that just surfaced over the weekend. Yes, I am supportive of Mr. Crosby's dismissal and I have yet to hear concern on the council's part of the derogatory comments he made regarding city staff. As members of the city council the city funds your retirement benefits through the Cal PERS system. Perhaps if you participated in the City's retirement system you'd be a bit more concerned about ensuring the impartiality of the retirement services administrator.

>> Mayor Reed: Sorry your time is up. [cheering and applause]

>> Mayor, council, I'm Scott coopts contes. The section generation firefighter. I grew up still proud of living here and I'm told a lot of my friends that live here you know you have one of the best fire departments around. Now I'm not so sure. A lot of changes happened recently. Some -- for some reason, some of you are bargaining the lives and the future of San JosÈ residents with your agenda. By cutting city employee wages to a point where San JosÈ is the lowest in the Bay Area you are undermining the great strides that have been done to the quality of workmanship of our employees in San JosÈ. Who will want to work here? This will become a training ground for all other cities to benefit from and San JosÈ residents will be footing the bill. They also get employees who couldn't get hired in other cities, and let's just say they may not be the cream of the crop. Sure there will be a few standouts but who will be surrounding them? You have a choice to support --

>> Mayor Reed: Sorry your time is up. Colleen Mulholland, Tom Reed and then Bill Newton.

>> Good morning. My name is Colleen Mulholland I'm a second generation firefighters and I've been in the fire department for over 25 years. I'm asking that you stand by agreements that have been formed over many years by many people by both sides of the negotiations table. I'm confident that everyone in this room can and wants to serve our public and do good things. By implementing the proposed ballot measure, you will participate in a process that will actually do harm. Please don't doubt that. This is a matter of keeping an agreement and do the right thing. Please take this into consideration when you vote. Thank you.

>> Mayor Reed: Tom Reed. [applause]

>> Mayor Reed: Followed by Bill Newton and Doug Humphreys.

>> We work hard to provide a very high quality service to our citizens. You have an opportunity to do a great deal of damage to our firefighters and our citizens. Please make the right decisions. It's imperative that we're able to attract quality and attract and retain quality firefighters. Your decisions can make this an undesirable place to work and live. Please do the right thing. Thank you.

>> Mayor Reed: Bill Newton. Doug Humphreys and John Pavlov.

>> Good morning, mayor, councilmembers my name is Bill Newton. I've served the residents of San José for 22 years. I live in San José, and I'm a resident of District 2. Because of live in San José, I have strong interest in maintaining the standards and the service in my community. My children go to public schools. And we are frequent users of local parks and libraries. The police and firefighters court system for many years to come in the meantime the fire department, the police department, the parks department, and library services will be decimated which will have significant negative impacts on my family. All the while, there are significant savings from the retirement reform proposals in front of you, and best of all, they are legal. The only winners in this inevitable

lawsuit related to your ballot measure will be the lawyers on both sides. I used to be proud of the fact that I lived --

>> Mayor Reed: Sorry your time is up.

>> Thank you for your time.

>> Mayor Reed: Bill Humphreys followed by John Pavlov and Moises estrada.pes.

>> To this city and to its residents and on a daily basis along with my brothers and sisters we hold up that commitment and with your rejection of real pension reform I see that my employer will no longer stand by the commitments that you've made to me and to my family for the first time in my career I'm embarrassed to work for the City of San José.

>> Mayor Reed: John Pavlov, [applause]

>> Mayor Reed: Fomed by Moises estrada and Mike.

>> I've been a San José firefighter for seven years I'm also a third generation fireman as well as a retired military member. If you look behind you these are not just numbers these are people men and women willing to make the ultimate sacrifice for the city and for the citizens. In the military you would never treat a troop that was willing to go out there and lay down their lives for what they believe is correct yet you ask these people to make those same sacrifices for less benefit. I'm only asking that you look in the mirror ask if would you have your children do that as well. I don't think so. Thank you.

>> Mayor Reed: Moises Estrada [applause]

>> Mayor Reed: Followed by Mike Mirada and Scott Johnson.

>> Good morning, council my name is Moises estrada I've been a firefighter here for six years, six years I stood at the very floor here and took a solemn oath to protect citizens and life and property to put my life on the line if needed be, each and every one of you stand up there today and what my promises really garnered me is the disrespect of the city and the willingness to subvert, our offers and our goodwill, and kind of look the other way when we offer 10% pay reduction and a real tangible solutions to the budget problems that you know will help everybody. And all I ask for you is that the promise that I took six years ago, and the oath that I took, I hope that you keep that same promise. And you know, that don't do what you guys plan on doing. Thank you.

>> Mayor Reed: Mike Mirada followed by Scott Johnson and Michael Whittington.

>> Good morning, council, my name is Mike Mirada, born and raised here in San JosÉ my family live here in San JosÉ every day I come to work I don't know if I'm going to come home. I have to give my wife and my daughter a kiss good-bye every single day wishing that I come home. These cuts that you are proposing and the ones that we already gave up I hope you can look my family in the eye, I hope you can look at everybody in the eye, and tell them that we have taken their retirement -- we've taken them -- we've taken their money and we have lied to them. We have cheated them. And we have done illegal activities to benefit the city. It is very embarrassing --

>> Mayor Reed: Sorry your time is up. Scott Johnson, Michael Whittington and then Leo Prescott.

>> Hello, my name is Scott Johnson. I've been a police officer for 17 years. I care very much i'm here today so I can look you in the eyes when I tell that what you are proposing on your ballot measure is unfair and despicable. I don't know why you would choose to treat my family and me with such contempt. Every day I go to work I deliver on the promise I made when I started working here. As a San JosÉ police officer I work hard I make great sacrifices. I'm always prepared to make great risks to help others. My work has real impact on real people. Now the city is struggling with the offer our help in June we agreed to a 10% pay reduction higher health care payments with the knowledge that you would lay off many of our youngest and newest officers. Now we have

offered as cost saving proposal and I now know that I'm not valued here. This does not change how hard I will work or how much I care about the people I serve --

>> Mayor Reed: Sorry your time is up. Michael Whittington. [applause]

>> Mayor Reed: Followed by Leo Prescott and Bridget Tapia.

>> My name is Michael Whittington. hundreds and hundreds of gang members in each one of your districts. That is the fruit of my labor but you are overharvesting my suit and undernourishing my field. What will happen as you continue to squeeze this turnip? I lost my home, how much do we squeeze this until enjoy to greener pastures and serve other fields? Think about that when you do this, thank you. [applause]

>> Mayor Reed: Leo Prescott, Bridget tapia and Michael tapia.

>> City council, my name is Leo Prescott, San JosÉ police officer. I made a promise to this city and the citizens of the city itself that I would protect them and I would do everything I could within my power to protect them and their property even if it meant laying down my life. That's a promise I've been keeping for 12 years. You guys made a promise as a city 12 years ago when I took my oath, a promise I would receive a certain benefits package. That's a promise that you decided you don't want to keep anymore after I've kept my promise for 12 years to you and the folks of this city. And that makes me feel like I'm not welcome here. Like I'm not wanted and my efforts for these last 12 years have no value and no point to you. That makes me feel that everybody I've been able to affect in a positive way within this city over the last 12 years, you folks don't care about that either. If you pass -- if you put this ballot measure through, I believe you're not only letting everybody in this room down --

>> Mayor Reed: Sorry your time is up. Bridget tapia -- [applause]

>> Mayor Reed: Followed by Michael tapia and Arthur Milton.

>> Hole my name is Bridget tapia my husband stands behind me I'm a business owner, wonderful people who are our family. I want you to look at them and know that you're taking away their homes. You're taking away the abilities to support their families. This isn't a joke, they're going to come and save your lives some day or the life of someone you love. When I go to bed at night, I tremble in fear that my husband may not return. That is my reality. And now you're going to take his home? After he has three obliterated disks from his back from what's going to be left of him at the end of this retirement? You're going to make him work until he's 60 and then you're going to take his home and shame on each and every single one of you if you do it! [cheering and applause]

>> Mayor Reed: Michael attachia Arthur belt oob and.

>> My father Cruz tapia flue year veteran. My uncle Vick or the tapia, 41 year old veteran. All of us took an he oath here years and years ago. I just want you to guys to say, you value us. At least a little. At least look at us, here, my brothers right here. And let us know that we're not just numbers. I live in San JosÈ, born and raised, went to school here, raised my children here. I live in your district Ms. Pyle. I work for all of you. I'm willing to do the job that you asked me to do. I'm just asking you guys to do the job you're supposed to do. It's something that has to be done.

>> Mayor Reed: Arthur belton. [applause]

>> Mayor Reed: Followed by Soren coats and Joseph Rondone.

>> All in favor, Arthur belton firefighter for the City of San JosÈ for 11 years I come to work every day, I deliver on the promise I commit myself my life my health of serving the citizens of San JosÈ. We have offered further by taking pay reductions. We've offered further by taking reduction to our pay and benefits and now we are basically being thofferred which seems to me like bad faith. Nothing is open, nothing is offered in good faith. I hear Oliverio talk about open bargaining, doesn't seem to be happening. I have constant who seems to be wanting to change a pension system and a benefits system that he seemed to be able to work under that protected his interests. To me, bad faith [cheering and applause]

>> Shame on you, shame on you, shame on you, shame on you. [cheering and applause]

>> Mayor Reed: Soren coats followed by Joseph Rond oarvetionne and Joseph Covello.

>> market Street. I'm a simple man who believes in simple things. I believe in honesty, I believe in truth. And I believe in hard work. I work hard, I work earnestly to provide the best service that I can to the city. And the residents. I knew this job had risks when I took it. But I took those risks freely based on the promise that I would receive a fair and decent retirement at the end of my distinguished 30 year career. That promise appears to be veeping before my veryize to pursue what appears to be absolutely illegal and unjust. I believe that you, the council, should abide by your promise to provide for me. And abide by what some of you have called a social contract. And that is to keep your promise --

>> Mayor Reed: Sorry your time is up.

>> And do the right thing.

>> Mayor Reed: Joseph Rondone. [applause]

>> Mayor Reed: Followed by Jo Cravello and Antonacio Garcia.

>> My name is Joseph Ron Doan aye I was bonderren ms Councilmember Rocha's district for the past 15 years. I've watched you consistently run staffing levels in all departments short to where they can barely cover work loads. Our streets are terrible, tagging is everywhere, you've decimated or Police and Fire department and our taxpayer funded libraries are almost never open. You've declared war on every labor, every local, laid off hardworking employees in every department and cut the pay of everybody else while at the same time building a fund for a baseball team that's not even allowed to come to here in the first place. While everyity worker was slashing their pay and in some caress trying to send their pay back to the 1970s. While at the cost of living

continues to rise. Somebody needs to restore some integrity to this council. Stop stealing from your working class to fund your pet projects and provide for your citizens first, thank you.

>> Mayor Reed: Joe Covello. [applause]

>> Mayor Reed: Followed by Antonacio Garcia and George Beatty.

>> Mayor Reed, council, my name is Joe Covello. Created by my union but I have to point out something. Councilmember Liccardo, who is completely against Police and Fire in the city is conveniently absent. That is explain to every member behind me how it's okay for you to be in Cal PERS as a stable reliability safe option but it's not okay for us. Please explain that to us. [applause]

>> Mayor Reed: Antonacio followed by George Beatty and Jay Wendling.

>> My name is Antonia Criventiono Garcia I'm originally from Los Angeles. Been a firefighter for 11 years now. I moved up here with the intention that you know, I was going to come up here, provide great service to the city, fell in love with it, was proud to be here, proud to be a member. And I'm just here to tell you guys are slowly chipping away at this, I don't know if I could say any longer that I'm proud doing the job. I love serving the citizens of San José. But I'm really disgusted at our city right now and how they're just treating us unjustly and unfair.

>> Mayor Reed: George Beatty. [applause]

>> Mayor Reed: Followed by Jay Wendling and Paul Solerno.

>> Morning Mayor Reed, members of the council. George Beatty representing the San José Police Officers Association. Four months ago I was here to advise the council that it was not a good thing to lay off 66 cops and bad things would happen. Since then bad things have happened. Once again, we are here to tell you this ballot initiative is not a good idea. It's going to drive the trains right off the track. No qualified man or educated woman is

going to come work for a city, when they find out if they're shot and paralyzed from the neck down their reward is going to be a wheelchair greeter in front of City Hall. This ballot initiative is an insult to every man and woman that wears or has ever worn a uniform. I implore you to reconsider the offer we have made to the city by moving to PERS. Thank you.

>> Mayor Reed: Jay Wendling. [applause] Followed by Paul Solerno and Karen Augustine.

>> Mr. Mayor and honorable city council my name is Jay Wendling and I'm here with the retired police and firefighters. Several months ago I sat in the audience and listen to the city council direct the City Manager to listen to or talk to retirees. You should have directed her to listen. We have actually given a proposal that would pretty much meet the mayor's demands for cost savings, in this city. We have yet to even hear who refused that offer, whether it made it to the city council, or staff directed it. We have kept our promise to the City of San José as retirees and ex-cops and firemen. We would ask that you do the same and not force our older retirees to choose between medicine and dog food. Thank you very much, I hope you make the right decision.

>> Mayor Reed: Paul Solerno. [applause]

>> Mayor Reed: Followed by Karen Augustine and Mike Von Dalen.

>> Good morning, Paul Solerno. I was a police officer in this city for 28 years. I'm here to represent retirees. This ballot measure that you are proposing is justly unfair to your current employees. It is down right illegal for what you're proposing for the retirees. We contributed to our pensions and our colas based on our contractual obligations. We did it for the time we were employed. You are now saying you will not live up to that contract. I'm sorry, that's illegal. That's Paul Solerno, calling do it and then stay in my home. This is wrong, it is definitely illegal. It is definitely immoral and there are people much older than me, that you are ruining the golden years of their lives, you're force being them to live in dire straits after they planned for a lifetime --

>> Mayor Reed: Sorry your time is up. [applause]

>> Mayor Reed: Karen Augustine then Mike then Tina.

>> My name is 17 years and currently working at station 2 on the Eastside. I've also served my country in the United States air force for four years active duty and I have chosen to give my life to service. This job has had risk, I've taken those risks I've performed everything I was supposed to do every day I'm supposed to come to work and I'm proud to do that. I don't give sacrifice, we are putting our lives on the line every day with less. We work hard, we're getting injured, we're getting hurt our families are missing out on what we're supposed to be able to give them because you can't seem to come to some sort of agreement about what we need to do and how we need to do it. What I implore you to do I beg you to do is to really look at what we presented to you and look at it with an open heart and not with a retaliatory spirit because this is what we're feeling this is about. Think about what you're doing before you do it because it's going to have horrible, horrible backlash.

>> Mayor Reed: Mark Van Dalen. [applause]

>> Mayor Reed: Followed by Tina Perez and Rick palmer.

>> Good morning mash and council thank you for the opportunity to speak today. As each person took employment with the City of San JosÉ we were told here that we were an asset. Asset not only to the citizens but also to the city that we work for. However under Ms. Figone's tenure we've been portrayed as not an asset but a liability. As Mr. Liccardo pointed out liability that needs to be reduced or eliminated. If some of the councilmembers are unaware of Mr. Liccardo's actions please explore those disclosures between him and deputy director of retirement, and realize that that is a collusion between him and a coin and someone in charge of retirements poop the actions of a few recognized it and these members here who are the San JosÉ police department and firefighters that are here is only a small portion of the overall city employees that are feeling the punch that you're delivering to us each and every day. Thank you.

>> Mayor Reed: Tina Perez. Followed by Rick palmer and James Gonzales.

>> Tina Perez, 17 years firefighter. I who we'll be working with where we'll be working. Engineers are forced to work in areas that they don't even know, some don't even know the apparatus that they will be driving that day. This does not allow for continuity at the highest level. I invite to you ride along to see what weigh do as firefighters every day we lasting effects that are not easy to live with. My last injury a burn to my face fighting a fire. Instead of being compensated by the city for our sacrifices we have to fight for our own pensions and paychecks. What a disgrace to work here now we don't feel valued for 60 are you kidding me? Do you really want 60-year-olds with injured backs, ankles shoulders, think about it. Because of the cuts and burnouts it is taking us 15 minutes sometimes to get across town. What if it's you or your loved one your wife or your child --

>> Mayor Reed: Sorry your time is up. Rick palmer. [applause]

>> Mayor Reed: Followed by James Gonzales and Bine Don.

>> My badge number is number 261 because that's all I am to you. Bunch of badge numbers out here. When I was in college over at San JosÈ State they taught me that an oral agreement isn't written -- isn't worth the paper it's written on. Nowadays we have written documents, legal documents. What each and every one of you guys, most of you especially the attorneys up there are taking that document and doing this. Do the right thing. Negotiate with us in good faith.

>> Mayor Reed: James Gonzales. Fold by Bien dop and Clinton Murkle.

>> James Gonzales, we already have a crystal ball as to what will probably happen. Today as we speak hundreds of police officers and firefighters are looking for other jocks and why would they? With poison pills in this ballot language like the inability to collect a disability retirement if you're incapability of engaging in any other gainful employment with the city and not eligible to retire. There's classifications that pay \$7 an hour here. If you are going to take a bullet for the city and that's going to be the reward, then I don't think that there's going to be many people working here, thank you.

>> Mayor Reed: Bien Don. [applause]

>> Mayor Reed: Followed by Clayton Markle and Cruz tapia.

>> Honorable mayor and city council. My name is Bien Don. 11 years ago I quit my job as a project manager to become a firefighter and do what I love. Just like any other American, our house is on the water and upside down. But my family still do the right thing. We get up in the morning we go to work we save we help our family, our friend our neighbors even the homeless and what I'm out standing before you right now I'm asking you to do the right thing. Not because of political aspiration, not because of peer pressure or empty promises. To do the right thing not to destroy our lives or hurt the citizens of this great city. I stand here and ask and challenge you and empower you to do the right thing.

>> Mayor Reed: Clayton markel. [applause]

>> Mayor Reed: Followed by Cruz tapia and Wayne Van Gundy.

>> Good morning mayor, city council members, my name is Clayton markel, I've been working wore this department your department for 22 years. 22 years ago I took this job to serve the citizens of San JosÉ. I wasn't given it, I had to win it. There were thousands of people that wanted it, I wanted it for the opportunity to serve. I had to battle for it. It's been an honor to belong to this organization. All these people, standing in front of you, I respect them all for one simple reason: They've committed to risk their lives for another. We've all agreed to do this, not just for our friends our neighbors our co-workers but for complete strangers. We've even agreed to do this for those of you on the county who have voted to reject our proposal. Anyone, those of you who voted to put this measure on the ballot, this tells me you don't value my service, that every time I come to work or put on the uniform I put my life on the line.

>> Mayor Reed: Sorry your time is up. Cruz tapia. [applause]

>> Mayor Reed: Followed by Wayne Van Gundy and Jack farmer.

>> Good morning. As you've heard from my son my family and I have provided over 100 years of service to this city. You cannot do this morally. These men and women that serve you and me and all the rest of the citizens deserve to be treated fairly. Number one. Number two, the financial strait that the city finds itself in didn't happen overnight. Some of you have been on this council more than eight years. You, Mr. Mayor, have been in my service for more than 10 and you guys allowed this to happen. Okay? [cheering and applause]

>> So you cannot make it a personal vendetta that you have made it to take it out and to dissolve the unions of this city. And the rest of you that are on his coat tails you've heard brothers and sisters to say, you know what, look to the government to screw up because they don't have sufficient funding I hope you can look yourselves in the eye and say if that happens each to one.

>> Mayor Reed: Sorry your time is up.

>> One more question.

>> Mayor Reed: Your time is up. We got others who want to speak. [applause]

>> Mayor Reed: Wayne Van Gundy then jack farmer then Jim McMan.

>> By name fire service 25 with San JosÈ. I very much admire this fire department and the personnel that sit behind me and the service it provides. I cannot say the same for my current association with this council. I stand before you so you might see the face of someone you've chosen to denigrate by your words and by your actions. This proposal is unconscionable, do not think we have spouses lost jobs many have already lost their homes. The long term impact will be devastating to the families of your employees. Mayor Reed your daughter is a pilot in the United States Air Force as is my son city's crisis in its employees especially Police and Fire? Every

day these men and women go to work to deliver on the same promise I made the same promise your daughter made to place themselves danger and the people they serve. Additional concessions to this council.

>> Mayor Reed: Sorry your time is up. Jack farmer. [applause]

>> Mayor Reed: Jim McMann.

>> Good morning I'm jack farmer a retired police captain who served over 30 years for the City of San JosÉ. You know when I worked for the city it was never an 8 to 5 job for me it was a way of life. I gave you everything I had for 30 years and several of you up here on the podium know me personally and know what I say is true. I gave you all I got but there was a deal that we had. I held up my end of the deal. I expect to you hold up yours. And one thing I'm noticing. You lose these men and women you're going to lose this city. And you lose this city it's going to be a sad day. I know several of you know me very well and you trust what I say. I'm telling you that's going to happen if you're not careful. Look at the big picture. Thank you very much. [applause]

>> Good morning, ladies and gentlemen, my name is Jim McMan. I'm a retired police sergeant, 20 years on the job congratulate you. On 37 homicides this year on the doubling of gang violence on the increased time it takes to get a fire truck or a police officer to your door at the time of need. On the longer and longer response for priority 1 and 2 calls when somebody has got a gun in your face and threat thing death we'll try to get there in 15 minutes. Number of response calls, calls authority I was out on Saturday and I watched sergeants cancelling calls on the day shift let alone the midnight stuff that was still left over hours later. I want to congratulate you on the millions of dollars lost on paid for training responsible for having left our agency in the last 90 days alone. Having some of the most damaging effects on minority and protected class hiring in the past four years in the plarnlg. Gramps, another of your goals reached. On your ability to continue junkets to China, ierltd, this zip code by the way.

>> Mayor Reed: Sorry your time is up. [applause]

>> Mayor Reed: That concludes the publicly testimony. We're going to adjourn into closed session and we'll be back into 1:30. Councilmember Rocha.

>> Councilmember Rocha: Thank you mayor, I did some work on this item and included it in a nome and I request that we take it up in closed session.

>> Mayor Reed: Thank you, we'll take it up in closed session.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting back to order again, we've been going since early this morning but we're here for the afternoon agenda. We'll start that by having an invocation. Councilmember Rocha will introduce the invocator.

>> Councilmember Rocha: Thank you, mayor. I'd like to welcome two students from Ida Price Middle School, represented by music director Catherine Lorigan. And two of the students will be performing the song, Duet Number 5, a flute duet, Francois Lereon. Ida Price is also where my son goes to school, and I hope that's not a conflict of interest, city attorney. So without further ado, I would like to introduce these two students. Thank you for coming. ||-|| ||-|| [applause]

>> Mayor Reed: Okay now we will have the pledge of allegiance. Thank you very much for the invocation. Please stand for the pledge. [pledge of allegiance]

>> Mayor Reed: Thank you. Next item of business are the orders of the day. Are there changes from the printed agenda? We need to defer item 2.4B council committee reports until November 1st and I want to take item 4.2, the agreement with polycom, ahead of Item 4.1, which is the San José rep line of credit matter. Any other changes to the agenda? Is there a motion? Motion is to approve orders of the day. All in favor, opposed none opposed, that's approved. Closed session report City Attorney.

>> City Attorney Doyle: Mayor the City Council met in closed session this morning. There is no report-out.

>> Mayor Reed: We'll now move to ceremonial items. To start I'd like to invite Councilmember Campos and Damian Trujillo to join me at the podium. Today we're commending Damian Trujillo for his 15 years of service as the host and producer of NBC Bay Area's weekly program, Comunidad Del Valle. Councilmember Campos has some of the details, and we may let Damian Trujillo speak.

>> Councilmember Campos: Thank you, mayor. You know, in Spanish there is a term, and I'm going to say it about Damian. Damian Trujillo is mui juanahente. In English he is very good people, and that is echoed throughout the South Bay, people that know him personally and people that see him on television. For many of you that are here, Damian is no stranger. He is a native of Greenfield, California. And is currently an NBC Bay Area news reporter, host and producer of the very successful show, Comunidad Del Valle. As a result of Damian's outstanding work in television, he has been recognized and acknowledged several times in his career. Damian has been awarded the prestigious reporter of the year award in 2004 by the associated press television and radio association for California and Nevada. And he was also recently awarded the 2011 Cesar Chavez so se puede award for his work in uplifting the Latino and farm worker community. For those of you who have had the opportunity to meet Damian, you will learn that he remains humble and committed to the community. He can be attributed to his humble upbringing when he was born and raised in the central coast town of Greenfield, California, by immigrant parents. He the fifth of eight children, and like many other immigrant families, he worked the farm lands to help put food on the table and a roof over the family's heads. After his graduation from San José State University in 1993, Damian began to work in the broadcasting industry and in 1996, took over as host of the Sunday morning show, Comunidad Del Valle, showcasing the Hispanic community throughout the Silicon Valley and Bay Area. So today I want to take this opportunity to acknowledge Damian for his outstanding work in television at NBC, his commitment to the community, his ability to bring light to issues that would otherwise get overlooked, and most importantly, and those of you that are Latino, we never get one, but for celebrating his Quincinera. Mayor, can you please present the commendation to Damian Trujillo.

>> Thank you, Councilmember Campos, and to you and your staff, mayor, you know there's somebody on the roof of City Hall? Thank you all very much. You know, the great thing about being on TV for 15 years hosting the show is that everybody thinks that you're 6'2" although that is not the case you try to stand tall. Thank you I really appreciate that. You try to stand tall. Fox news, although they don't follow it sometimes, they have it right when they say you have to be fair and balanced and you can't cross the line not once when you're in journalism. It's a value that you put on your press pass when you're out reporting the news, when you're hosing a show as powerful as Comunidad Del Valle, you are representing an entire community and you have to be fair equal an balanced to everybody and that's what we do. I am humbled. My family is here, my father-in-law Mike, my mother-

in-law Rebecca, Malina, my six-year-old, my twins, Michael Damian and Isella, and my mom Josephina is here. My wife is out at training out of town, but I appreciate them being here and supporting me throughout these years, and what an honor. It's very humbling. We don't do what we do to get recognition, we do it because it's important for this community but it's nice to get recognized. Thank you. [applause]

>> Mayor Reed: Damian thank you a lot. I didn't get involved in the preparation of this. If I had I'd have all the councilmembers screaming questions of you at once and you could answer them. We'll save that for the 20th. Now I'd like to invite Councilmember Chu, Ron Muriera of the Filipino American National Historical Society, and Clarence Madrelejos to join me at the podium as we recognize the month of October as Filipino American history month in the City of San José.

>> Councilmember Chu: Thank you, Mayor. I'd like to thank my colleagues and the mayor for joining me to proclaim October 2011 as Filipino American history month in the City of San José. The City of San José greatest strength is diversity of residents from other parts of the world. Today sanctioned by the council signified our appreciation and understanding of various cultures. California state legislature, in 2009, designate October as Filipino American history month. This October makes the third anniversary. We have more to celebrate this year. October 18th the governor just signed into law assembly bill 199. Which will -- the Filipino World War II social study curriculum act which ensured that social science curriculum in grades 7 to 12 include the significant role of Filipino Americans in World War II. As a Filipino American history month commemorate and honors more than half a million members of the Filipino community in the United States, mayor and council, thank you very much for joining me on this 25th day of October 2011 do hereby proclaim October as Filipino American history month. Thank you very much. Mayor.

>> I'm just honored to be on the same agenda as Damian Trujillo. Who I watch, I know it's an early show, but I make sure to watch his show. First off, on behalf of the Filipino American National Historical Society's Santa Clara Valley chapter, as well as the National office, thank you, Mayor Reed, Councilmember Chu, and all the honorable councilmembers for this proclamation. San José was one of the first cities, not only in California but here in the United States, to officially recognize and acknowledge October as Filipino American History

Month. And so it is our -- from FANH our deepest appreciation and thanks for continuing this tradition and recognition. I wanted to briefly share with you some milestones that make this year's Filipino American history month even more special. Councilmember Chu already mentioned the passing of the Filipino veterans World War II social studies curriculum act signed by governor Brown. But last month, assembly concurrent resolution 74 which was called the Filipino American resolution was authored by assembly member Luis Allejo, of Salinas, which was successfully passed in the California legislature. And the resolution expresses on behalf of the legislature and the people of California an apology to the Filipino and Filipino Americans of California for the violation of their civil liberties and constitutional rights that resulted from the passage of governmental prejudicial policy and laws, during the 1920s and 1930s, especially during the 1930s Watsonville riots. So that was of course one of our champions, assembly member Luis Allejo. And also today, October 25th, is the birthday of Larry Dulai Iteong, Filipino labor leader, founder of the Filipino farm labor union, and president of the agricultural workers organizing committee. Along with Philip Vera Cruz, Larry convinced Cesar Chavez and Dolores Huerta in the predominantly Mexican Latino national farm workers association to join the 1965 Delano grape strike demanding better pay and benefits for all farm workers. So together the Filipinos and the Americanos formed United Farm Workers. So Larry Iteong became a higher ranking member of the UFW and I'm sure he would be in solidarity with our labor brothers and sisters outside to fight for equal pay and equal benefits. So again, thank you so much for this proclamation on Filipino American history month. [applause]

>> Mayor Reed: Now I'd like to invite be Councilmember Kalra, and Councilmember Campos and Nina Rodriguez to join me at the podium, as we commend her for her excellence and achievements in the sport of golf and in appreciation for her serving as a role model for San José residents young and old.

>> Councilmember Kalra: Thank you, mayor. Today we have the honor of presenting a commendation to a young woman who serves as a role model to all San José residents. Nina Rodriguez born and raised here in San José grew up playing a variety of sports. Basketball was Nina's sport of choice and she had dreams of one day becoming an NBA star. It wasn't until her junior year at Oak Grove High School, my alma mater, that she took up golf. Nina is accompanied today by her father John as well as her mother Jean. They both soon realized that she had a natural talent. At her father's encouragement Nina took up competitive golfing while at Mt. San Antonio

College and began focusing solely on the sport. Here she helped her team capture state championships two years in a row and won the 2005 Southern California individual championship. She then transferred to San José State competing with the women's golf program. Following graduation, Nina immediately turned professional and by 2011 she had full status on the LPGA futures tour. Her determination, and perseverance in the sport of golf has led her to compete in the golf channel's big break Ireland where Nina is one of 12 contestants this season. So that show is on the golf channel, it's on every Tuesday night. Today is Tuesday so be sure you go home and watch it, it's on at 6, 7 and 9:00 p.m. There is no excuse for you to not go home and watch Nina because out of the 12 original contestants, there are only six people left, only three of them are women. She is one of the three women left competing. She can't tell us what happened, her parents don't even know, but we have to watch to find out. And so I really hope everyone can watch to support our local hero as she moves on in these final weeks of the show. The City of San José would like to wish Nina continued success and thank her for being a local heroine and role model for residents young and old. Now, on behalf of Mayor Chuck Reed and the entire council, my colleague Councilmember Xavier Campos, I'd like to welcome Nina and congratulate her on all her success as a San José resident. [applause]

>> Hello. I just want to say that I feel honored to be receiving this recognition from my city council. I'm, you know, a lifelong resident here in San José and I look forward to continuing to represent and serve my community in years to come. Thank you. [applause]

>> Mayor Reed: I'd like to invite Councilmember Pyle, representatives from the City's disability advisory commission, manpower, transaccess, and the California Department of Rehabilitation to join me at the podium as we recognize the month of October as employment of persons with disabilities in the City of San José.

>> Councilmember Pyle: Thank you, mayor. I'm very happy to be joined by members from the City's disability advisory commission and as the liaison to the group I'm very pleased to be presenting this proclamation naming October employment of persons with disabilities month in San José. Joining us today to receive this proclamation are representatives from manpower, if you just -- there you go, and that would be Priscilla Asuata, Transaccess and the California State Department of Rehabilitation, we have Maria Nicolares, Jessica Orasco, Debra Sweeney

from the Department of Rehabilitation, Karl Witt, chair of the DAC, and Christine Wright, vice chair of the Disability Access Commission, and Daniel Newall, also former member of the DAC. Together these three organizations are part of project ability, a program that transitions people with disability into sustainable employment with leading employers nationwide. Initially launched in San José, the program is now a national program through which manpower works with local community based organizations to identify and place candidates with disabilities in jobs. People with disabilities represent the largest minority in the United States. And have recently experienced an unemployment rate of 14.7% according to the United States Department of Labor. In addition, the United States disability employment statistics for May 2010 revealed that the percentage of people with disabilities in the labor force, was 22.3% compared to 77 for persons with no disability. In 18 months since project ability was launched in San José, the program has put over 130 people with disabilities to work. This is a great example of how one business can work in partnership with a community to help get San José residents back to work. Priscilla Asueta from manpower has a few words to share. [applause]

>> Well first of all I'd like to thank Mayor Reed, Councilmember Pyle, the council and the DAC for acknowledging this special, special program. I know I speak on behalf of everybody here, all the people behind me, and especially Maria Nicholoudas and Deborah Sweeney who had the foresight and the vision to collaborate with manpower and to say yes we can, yes we can actually give people with disabilities jobs. Basically, we're in a place of innovation We're right here in the melting pot and this is Silicon Valley and this is San José and what better place to pilot a special program and to actually put over 130 people to work. These are individuals that we already have gotten testimonials that are doing an outstanding job and because of the great work that these folks have done, we're launching this on a national basis and we expect to put thousands to work. So thank you again so much for this great privilege and for proclaiming this today. Thank you.

>> Mayor Reed: We forgot to introduce one of the key players, that's Karl's assistant Heaven. When you see Heaven laying on the floor like that, that's what we all want to do after about eight hours of this. Our next item is the consent calendar. I have one request to speak on the consent calendar, Mr. Wall. We'll pull 2.6 which is our report to the liaison to the retirement boards. I know he's got some reports. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'd like to pull 2.7 please.

>> Mayor Reed: Mr. Wall.

>> David Wall: Sure. Good afternoon, Your Honors. City Hall's getting to be quite entertaining especially out front these days, good folks out there. I want to speak basically on the transportation and environment committee report on October 3rd. And with reference to the curfew at the airport. Yesterday after a very nice meeting with the Community and Economic Development Committee, I happened upon discussion with some -- a gentleman from all Nippon airways which is in the rotunda. And I talked to the gentleman about thanking him for bringing his airline to San José. And also, the fact that they were going to use the dreamliner which is a very new product from Boeing that could fit on our airport. Then I kept asking him questions about the curfew because I was kind of curious about council's extend travels to China, to Korea and to Japanto and to Ireland for soliciting air routes to San José which in itself is a good thing but people might wonder why you're not staying here and trying to knock down the unfortunate moniker of being the undisputed murder capital of Silicon Valley, but nonetheless the ANA representative confined his statement that the landings and takeoff times would be the same for now but would soon change. And so I would just like to ask if you folks would either confirm that or put it to rest that in these negotiations that aren't as transparent as people would like them to be if you would like to modify or waive elements of the curfew to accommodate these new air routes and that will have to the quality of life for those who are unfortunately in the flight path of the airport and how it affects indirectly the habitat plan. Thank you.

>> Mayor Reed: That concludes the public testimony on the consent calendar. We have 2.6 that's been pulled. Councilmember Rocha, 2.7 was dropped under orders of the day.

>> Councilmember Rocha: I meant to say hi a question for staff on. Thank you.

>> Mayor Reed: Thank you, we'll do that. First we'll take up -- well we need a motion on the balance. Motion is to approve the balance of the consent calendar, all in favor, opposed, none opposed, that's approved. 2.6 is report of the council liaison to the retirement boards.

>> Councilmember Constant: Thank you, mayor. On the 20th of this month the Federated employees retirement board had a discussion with its actuary, Cheiron, about the preliminary valuation report based on the year ending June 30, 2011 and the impact of potential assumption changes. There's a lot of numbers, and a lot of graphs. I'm going to kind of go through it quickly. But the entire presentation is available in the packet under item 4.1 for those who would like to get more details. First of all is the preliminary valuation results that are before changes in any assumptions comparing June 30th, 2010 to June 30th, 2011. The unfunded actuarial liability increased by a factor of about \$90 million. And again that's using a 7.75 assumption rate. The funding ratio decreased from 69% to 67%. Total active payroll has decreased by 24%. Average pay per employee has decreased 11.3%. And the number of retirees has increased 12%. Based on everything that was examined there were some key recommended assumption changes that were made by the actuary, Cheiron, and that's the determination rates based on age and service groups, that the termination rates be based on age and service groups, that we reduce the refund rates for five-plus years of service, that we recognize improved mortality rates, that administrative expenses are moved to be into the normal cost of calculation. That there's an adjustment to the merit salary scale, that there's recognition of the increased retirement rates, the reduced disability rates, the reduced reciprocity effects and the increased probabilities of marriage and domestic partnerships. Based on all that, the board took several actions and they broke down the report into different areas. First is the board unanimously approved the demographic changes that were suggested by the actuary. They adopted a wage inflation rate, and this is, again, not any one year factors, but these are over the long term, to be 3.25%. That is instead of the actuary's recommendation of 3.5%. The board actually took an action to go with a lower assumption in that particular area. The board adopted an investment rate of return assumption of 7.5% net of investment fees, and it's important to note that that is also contrary or instead of the actuary's recommendation of 7.25%. Now, while those are outside of the actuary's actual recommendation, it is within the range that the actuary considers to be reasonable. The board also adopted an SRBR cost assumption of .035%. Now, we don't have exact contribution rates because these are the factors that go into performing the final valuation. The board will get its final valuation results and start talking about proposed assumptions for the health care or the OPEB liability valuation. But using a 7.75 assumption rate, the actuary was able to do an analysis of where things would go, and for those of you who get the -- who take the time to download the report or the presentation, it's on page 5, and that's that the

members' rate will increase from approximately -- or from 4.7% to approximately 5% and the City's contribution rate will increase from 28.3% to approximately 35.1%. But as I mentioned the board did not select a 7.75% assumption rate, they selected a 7.5% net of investment fees rate. Which means those numbers will go up. So in summary the actuary did take into account the changes not only in payroll, the fact that payroll -- that average pay per employee decreased 11.3% and that active, total active employees on payroll decreased by 24%, but also, that the number of retirees increased 12%. So all of this taken into account is going to mean that we will have higher contribution rates than expected. We don't have the exact amount but we will have that at next month's board meeting. There are two other items of note from the board meeting. One is, we've had discussions about the calculation of the reconciliation of prepayment based on different assumption rates and there was a discrepancies of about \$8 million that the council and the City Manager went to the board to ask for clarification. The board did take a vote to make a determination that that \$8 million is due to the board based on the actions that they had previously taken. So that's an \$8 million number that we did not have in the budget, and that is for this fiscal year. Additionally there was quite a bit of discussion, and it's a continuing discussion that I've mentioned here before that the board has had for several months about the Department of Retirement services staffing levels. The board members, particularly the independent new board members, have continued to be extremely concerned about the staffing levels. Based on that concern, they've asked Cortex who is their consultant to do a salary survey to look at compensation of the employees as well as one factor of one of the reasons that they may be experiencing issues in keeping staffing where they need it. I think I reported before, there's about eight vacancies out of the staff at this time. The report that Cortex provided which is actually available under item 5.3 of the agenda if anyone cares to look at it, shares that the employees are below the 25th percentile for peer job classifications in the public sector and obviously lower when compared to the private sector. The independent board members wanted me to make sure that I let you know that they wanted a clear statement from them to let us know that they are extremely concerned about the impact that the staffing issues have on their fiduciary the responsibilities, and their ability to adequately invest the moneys that they are assigned to. One board member even went so far as saying, that they felt that if there's no action, that the issue would be so significant that they would resign over the issue because they felt that they were being impaired in their ability to meet their fiduciary responsibility. So I already mentioned that we will have the final report at the next board meeting. It is also of note to say that the Police and Fire board has not had these actions yet. They're actually a

couple of weeks behind the Federated board. So at the next board meeting of the Police and Fire they should receive this preliminary valuation from Cheiron. They will then make their determination on what assumption rates they will be using and instructions that they will be given to Cheiron to complete the final valuation. When one of the board members asks you know kind of what boat are they in compared to Police and Fire, versus Federated, the answer was, well, it's the same actuary so you can expect pretty much the same type of recommendations. But obviously we'll see more when that report comes out and I will report it out to the council after the next meeting.

>> Mayor Reed: Thank you for that sunshine report. Councilmember Pyle.

>> Councilmember Pyle: I would really love to get a written copy of that. Would that be possible?

>> Councilmember Constant: It's all online.

>> Councilmember Pyle: It is online. Okay. All right.

>> Mayor Reed: It is the retirement board, Website not council.

>> Councilmember Constant: SJ retirement.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: And that was item 4.1 on that Federated board agenda. Councilmember Rocha.

>> Councilmember Rocha: Thank you, I have a follow-on question on that. So is the item you're speaking about in a report form similar to the one just presented to Councilmember Constant or just reading through the minutes of the meeting is what you're suggesting?

>> Councilmember Constant: No, the entire binder, there's a multipage presentation PowerPoint from Cheiron. Additionally all the board meetings are video streamed just like our meetings. And I would really suggest at least for item 4.1 that would be the one that you'd most likely want to watch the video. The rest of the meeting quite frankly is very dry.

>> Councilmember Rocha: Sounds like ours.

>> Councilmember Constant: Not that the actuary is very exciting but there is a lot of information in that small period.

>> Councilmember Rocha: I concur with Councilmember Pyle as giving this as a report, a written one. I'm not suggesting that Councilmember Constant put in a lot of time and effort on it, would in some cases be helpful, but thank you for the update and I guess I will look forward to going through that meeting. Thank you.

>> Mayor Reed: Anybody else on that item? 2.7, Councilmember Rocha had you a question on that item, that's the clear channel contract at the airport concession.

>> Councilmember Rocha: It is a very short one and I think this was more for the City Manager, I was wondering about the drop, I believe this is not the first time we've dropped that item.

>> City Manager Figone: I'll let airport staff answer that question.

>> Mr. Mayor, members of the council, Kim Aguirre from the airport, chief operating officer. The reason for the drop is we're still in the process of negotiating some changes with clear channel, and until we get the full package we'd like to have more time to negotiate those changes.

>> Councilmember Rocha: So negotiating the changes, is that in respect to the contract we have with them and the letter in terms of the mag relief or these items? Or the whole package?

>> The whole package, yes, sir.

>> Councilmember Rocha: In terms of timing what do you expect?

>> I have to get back to you on that. It depends on the direction the discussions go.

>> Councilmember Rocha: Do you know how often you're meeting?

>> I don't. I can get back to you on those items.

>> Councilmember Rocha: Thank you very much.

>> Mayor Reed: All right that concludes the consent calendar. We'll now move to item 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor members of the council. I did want to take a moment to talk with some of the significant national recognition that was just bestowed on our San José public library earlier today. Some of you might have been at the press conference, I was and it was really a pretty important press conference and so I do think it's worth noting here for our audience and anyone else in our community who was unable to attend. The press conference announced that the San José public library is receiving the 2011 national medal for museum and library services from the federal institute of museum library services. This is the highest honor a library can receive. San José's public library is one of only five libraries in the country to be recognized and is the first city library in California to receive this award. The San José public library was chosen for several reasons: Its national reputation for providing high quality services to our diverse community, its reputation for making libraries easier to use, the way it excels at using technology to improve service while using staff resources efficiently, and finally for serving an educationally and ethnically diverse community very, very well. As part of the national medal recognition the library will receive \$10,000 and a visit from storycorps. Storycorps is a nonprofit

whose mission is to provide Americans with all backgrounds and beliefs with the opportunity to story record and share the stories of their lives. Storycorps will record the stories of residents about the impact that the San José public library has had on their lives. Those stories will then be archived at the library of Congress. In closing I would like to thank Congressman Mike Honda for the nomination. Mike couldn't be here with us today but his deputy director Mike Nguyen was at the press conference. And we do appreciate you being here Mike. And I'd like to reiterate Jane's thanks to many, many groups of people. She thanked her staff some of them are in the audience today who really make the library workday in and day out. She thanked her volunteers. Many, many volunteers as you all know in the community who without their support the library really couldn't function and certainly the community who uses our library. Would I like to thank Jane for her leadership. She's been an outstanding manager for the many years we've had her. I had a hand in bringing her into the city. Thank you Jane for your leadership and helping us to get this award. Thank you all.

>> Mayor Reed: Thank you all. As I said at the press conference. We are not surprised to win this award. We are very happy to win the award, but it's an award for innovation and creativity, which is what we do here in the valley, and our library is a great national leader. So it's good to get recognized and our people have done a great job. That concludes the report of the City Manager. Next item would be item 4.2, that's the agreement with polycom for polycom's new headquarters in San José. I think Nancy Kline is going to lead the presentation. You're not on there.

>> Thank you. I think we have one slide coming. Thank you very much. Nancy Kline deputy director of office of economic development. I'm very pleased to bring before you today an action related to polycom's expansion here in San José. Polycom began in 1990 and is a global leader in telepresence, video and voice conferencing solutions. Polycom will locate their headquarters operations here at legacy's America center located at 6001 american center drive as stated in the memo accompanying this action, the council, the company will bring to San José substantial direct and indirect benefits. We are very excited that polyl com has chosen San José as the company hazardous location and it is my deep pleasure to bring forward Robert Ted who is the vice president of workplace solutions with polycom. Robert .

>> Great, thank you Nancy and thank you council for letting us visit with you today. Again I'm Robert Ted vice president of real estate for polycom and we're very excited to be relocating our headquarters to Silicon Valley. As a company in the aesthetic and certainly being part of San José. a lot of folks know polycom as the company that provides conference room solutions, and we're really more than that. We're really more about providing unified communications, allowing people to communicate across distance using voice and video. we're very excited to be part of San José. And we're excited by the investment that San José is willing to make in us over the longer term and we're confident that will provide a great ROI for San José. The jobs that we're willing to bring to San José and able to bring to San José over the next few years are quite material for us as a company. We very much look forward to that. It's probably in the area of 2 to 300, maybe more, that's how large we're going to build our facility, we look forward to that and the partnership with the city and certainly the OED and helping us get to that decision point. Thank you.

>> Mayor Reed: That's a great slide and I'm glad to see the polycom sign is big enough you can read it from the freeway. Not that we want to brag but we do want to brag about the headquarters facilities. I needed to disclose prior to this meeting in preparation my staff and I met with a lot of people from polycom including Mr. Teed in preparation for this meeting and we appreciate their interest in San José and the money they're going to spend to create jobs. There's probably about 60,000 people live in San José that are looking for a job. So we're hoping a couple hundred of those people will get jobs at polycom. We appreciate that. We don't mind getting the sales tax revenues, the property tax revenues the utility tax revenues either. That's good for us and you're certainly moving into a great neighborhood, next door to IBM, just down the street from somebody you would like to keep an eye on that would be Cisco. It's a good neighborhood and we're pleased to have you in there. A wonderful place to take a hike at lunch hour environment you are in the innovation center of the world, where else would you want to be? Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, Mayor Reed, I just wanted to echo your comments and thank polycom for coming to San José. In change for another 400 jobs port for the city and important for this valley and I wanted to thank Nancy Kline her team for a job well done and as well as the staff on the mayor's office am I would make a motion to approve.

>> Second.

>> Mayor Reed: All right, we have a motion to approve. Mr. Teed you can have a seat. If we have questions, you can come on up. Councilmember Chu this happens to go into District 4 isn't it?

>> Councilmember Chu: The reason it's in a good neighborhood is because it's in District 4.

>> Mayor Reed: I was going to say had a I just forgot.

>> Councilmember Chu: Thank you, thank you. I just wanted to thank polycom for coming to the City of San José. I know you have taken one of the beautiful buildings in the American center. I'm hoping in a few years that you can expand it and occupy the other tower in American center as well. Also wanted to thank the mayor for your leadership to make this possible. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor and I want to echo those comments. It's a great day. Welcome to San José, polycom and have a dhons meet Robert Teed before this session and we're very excited to have you. Polycom could have picked other locations, they could have gone elsewhere but the fact that we are the center of innovation and definitely the capital of Silicon Valley. Nancy you are tremendous. These things do not happen without people who know how to put deals together and really show, put our best foot forward and you are directly a majority part of why this happened and I really really want to thank you for that. The other thing I wanted to say is we're talking about the \$200,000 that we're putting forward is also an investment in some equipment and some manufacturing and so that's going to create you know certain kinds of jobs that we want to see in San José. I just had one question, Nancy. So the \$200,000, where does that come from, is that part of the money that had been earmarked for bringing companies in that came out of the catalyst fund?

>> Yes indeed councilmember. Thank you very much for your previous leadership, snierg we had a pool in these remaining funds that will be allocated for equipment purchase to polycom.

>> Councilmember Herrera: I just wanted to point that out because we have been able to get a few deals now by very carefully managing that supporting me on that, so that we had the opportunity to leverage that and do some good here. So again congratulations and I'll be supporting this of course.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I just had a question for the gentleman from polycom.

>> Mayor Reed: Robert?

>> Councilmember Oliverio: Yeah so I've known the company for a while, I've admired it as a conference leader and a neighborhood as has been discussed with other tech leaders but in curiosity. The move did seem a little bit far. It's 30 miles. Can you tell us some of the background that went into that decision making process, whether you had a good concentration of polycom employees already living in San José or --

>> Mayor Reed: That microphone is not on.

>> We -- as part of that we looked at our existing base of employees which is roughly 200 in San José already and then we looked at where folks resides, that already commute into Pleasanton and we found a fair number of folks that were making the commute to the East Bay from the South Bay. So locationally it made a lot of sense for us to be in the North San José market with as minimal an amount of impact on a large base as possible. And then just being in the Silicon Valley certainly was a big driver for us. We've been Pleasanton based for ten years. It was very important for us to be considered a technology company in the valley and so that was also a key driver.

>> Councilmember Oliverio: So San José had more panache than Pleasanton in Silicon Valley?

>> You said that not I.

>> Councilmember Oliverio: You're obviously going to have incredible presence where your building is going to be. Thank you very much. I want to echo on Councilmember Herrera's if you did not provide a mayor's budget that left some seed corn available to do this we wouldn't be here or maybe not. And I think we have to watch ourselves because when we talk about spending every penny, and it could be just for one extra person you lose this opportunity to build your tax base. So I want to thank the mayor because if we didn't have that leadership we might not have this opportunity. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I just wanted to echo that because you're right. When we eat the seed corn you don't get the results of a nice crop and I want to tell you how much I appreciate the fact that you're here and Nancy I agree with Rose you're just terrific. Thanks so much and I hope your experiences here are nothing but good ones. Thank you.

>> Mayor Reed: Any other questions for Nancy or for Mr. Teed? None, we have a motion to approve. On the motion, all in favor, opposed, none opposed, that's approved welcome to San José. And when are you going to start the next building? Never mind. As soon as you can, I know that. We'll now move to item 4.1, the amended restated line of credit agreement with the San José repertory company. There will be a presentation by staff. Carey Hep near.

>> My name is Kerrie Adams Hafner, director of cultural affairs. I'm here representing my colleagues from city Manager's office we have been collectively working with the repertory theater on the line of credit agreements. We are here today recommending a restructuring of that agreement. We are recommending that the ten year \$ interest by 2037. The outcome of this restructuring effort will be a higher probability of repayment to the General Fund, and improved financial sustainability at the repertory theater. It will sustain the vitality of the downtown as a

cultural center of Silicon Valley and retain the \$9.1 million in economic impact generated by the rep. For background, per the current agreement, the line of credit drops from \$2 million to \$1.6 million, on October 31st of this year. And then it drops by a subsequent \$400,000 each following year. The rep does pay interest on the line of credit at the same rate as the City's investment portfolio yields, that's a variable rate. The rep has paid over \$200,000 to date to the city since 2006. And because the rep is fully drawn on the line of credit this \$400,000 will require a \$400,000 payment. Despite improvements to the rep's financial position it has not generated the necessary surplus to make this \$400,000 payment. This is due to the organization's slower than expected financial recovery amidst the U.S. recession. As a result, we are recommending restructuring the agreement, highlights of this restructuring effort include reducing the annual pay-down amounts and amending the remaining five years into 25 years, and aligning to the final maturity date of the date with the last year of the rep's O&M agreement to expenses and very importantly the line of credit will no longer function as a revolving loan in which the rep can use to manage its cash flow, pay it down and reborrow. Instead at the time convert to a term loan and the rep will make interest payments on a monthly basis and then pay down on the principal on an annual basis. The benefits of this restructuring agreement will be first and foremost to protect the General Fund. The city has a greater probability of getting repaid. The city will also continue to collect interest at the same rate as its other investments. Also, we will retain the 75,000 theatergoers to the downtown and the \$9.1 million in economic activity. And also, it's very important that we continue to support our downtown, as an artistic and cultural center and we want to retain the use of the Hammer Theater for the purpose it was intended. The rep has taken important steps to improve its financial position over the last five years. These efforts include tighter cost controls, it's reduced its operating budget, it's made staff cutbacks, it has new programming, increased transparency and increased board engagement. The annual subscription renewal rate remains above the national average. Overall the organization has shown the ability to make the tough decisions it needs to meet its financial obligations and also, to position it well for the future in its financial stability. The city will continue to monitor the rep on a monthly basis and assist it in its path towards sustainability. That concludes staff's report. Thank you.

>> Mayor Reed: Thank you. It was 29 years ago, and a few months, that I joined the board of San José rep. At a time when there wasn't much else going on downtown and a few people thought it would be great to have theater support our restaurants and to generate some activity and night life for downtown. And I served about three years

on that first board. And so I want to thank the current board and the current staff for the significant improvement in financial condition that's happened in the last few years. I know that's not easy, it's a very difficult thing to do, to dig yourself out of a hole and so a lot of work has gone into doing that and we appreciate that. I support their restructuring of this to make it possible for the rep to begin to make reasonable payments. The sort of balloon payment was just not possible. The rep is a very old institution in San José terms. Maybe not in world terms but 30 years is a very long time for an arts organization and the rep has been through some difficult times, bad economies, usually cut into theater revenues dramatically and we've just come out of a recession, although it doesn't feel like it. In many cases there hasn't been money available to support the arts as there has in the past so this restructuring is necessary and I'm going to support it. And looking ahead things don't look all that much better because the city budget, there's no extra money. In fact, back in our last budget message we've told our partners who support -- that we support, to prepare for zero because next year's General Fund is that bad. There may be no money for anybody, basically. And so I know that that's a heavy burden for the arts organizations as well as others but it's a fiscal reality that we are in. But we don't want to lose this arts institution. We don't want to lose the 75,000 people that come downtown most of whom go out to dinner supporting our restaurants and are certainly engaged in other ways and so this is a step that we can take to help the rep and still get the money paid back to the General Fund. And so I'm going to support the effort. Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. For those reasons that you just outlined and the ones that Carey gave us too I move for approval.

>> Second.

>> Mayor Reed: Motivational. Councilmember Herrera.

>> Councilmember Herrera: This much. I want to disclose that I met with direction, and I just I wanted to make the point in terms of this proposal, Kerrie is the rep coming to us for more money at this point on the proposal?

>> No, Councilmember Herrera. The rep is not asking for any additional funding or any discounting on this line of credit. They're simply asking for more time.

>> Councilmember Herrera: So I think that's a very important point to make. The money is start as a paying down the note has it been moving in that direction prior to this?

>> They have prior just simply made interest payments and they paid over \$200,000 to date.

>> Councilmember Herrera: But have they paid down the balance on principal?

>> They have not paid down the principal yet.

>> Councilmember Herrera: I like this from, it's getting it going in the right direction, extending it out over a longer period of time, I like plans where there can be a win win and the folks involved in it can actually meet the obligation. The way this is set up it gives the rep actually an opportunity to be successful. I really like that. What is the economic impact. There's a Deloitte study that talked about the economic impact the rep has open the city.

>> Deloitte as indicated it has 9.1 in economic opportunity and that's current based on 2010 numbers.

>> Councilmember Herrera: So that's great, as we already talked about, very important. I wondered Nick if you could come down for a movement and just briefly talked about -- Mr. Nichols, talk briefly about a couple of sentences on where you plan to go forward. Because I think it's very exiting the kinds of things that you're planning to do to actually start with this baseline and make this very successful.

>> Well, thank you. Mr. Mayor and members of the city council, good afternoon. I'd like to start by thanking you, and the City of San José, for the assistance that you've given San José rep through the arts stabilization fund and thank you very much for considering this proposal which I certainly hope you approval. We feel this proposal is a fair deal for the city it gets the city out of the business of managing the rep's cash flow and it gets the rep about

the business of paying the city back in full with interest. Again, we're not asking for more money nor loan forgiveness but rather more time. We are seeking a pay-back period that aligns with the period we expect to manage, maintain and provide programming in the hammer theater center. And over the last five years San José rep has made tremendous strides in our accountability, transparency, business operations and support to the community. Our progress has not been as rapid as we had hoped but starting to show very tangible results despite the economic environment we project finishing fiscal year 11 operationally in the black. Over 85% of our subscribers for last year have renewed for this year. Subscriptions and 17% ahead of last year and our first two shows of this season have already surpassed their sales goals. Over the last five years we have cut operating expenses by 19%, and last year we exceeded our fundraising targets. This proposal will enable us to take the next step of starting to attack our debt. It ensures that the company that attracts 75,000 people to the downtown each year and generates \$9.1 million of economic activity will continue to do so but most importantly it is a plan that will enable us to pay back the city in full with interest in a doable and predictable manner. So I thank you and I do hope that you will approve this proposal.

>> Mayor Reed: Anything further?

>> Councilmember Herrera: I do going to reach out to the community, try to really work to be more inclusive, that your plans for the future include a lot of exciting things in the schools, tying it into education I know you already have a program like that but I think the future looks bright in terms of the rep too.

>> Absolutely. We are in a process right now where we are working very hard to become more diverse, not only ethnically but as we think very importantly age-diverse.

>> Mayor Reed: Okay, thank you, Nick. We do have some other requests from the public to speak but some council questions first. Councilmember Constant.

>> Councilmember Constant: No questions, just a couple of comments. And I am a subscriber, my wife and I have been a subscriber for a number of years and I'm one of the 75% that renews my subscription. I want to

thank Kerrie. I expressed a lot of reservations about the proposed agreement. I don't remember if that was a week or two ago, whenever that was. And several of the issues that I brought up have been addressed in this final agreement. However, I'm still concerned about supporting this and it's not because I don't support the theater or the arts. Those of you who know me know that I'm out at a lot of these different events all the time, as I mentioned season ticket holder and I love coming downtown and spending the evening out with my wife and with friends and doing things. But I'm just really concerned. I'm concerned that, you know, we -- we keep revisiting the same issues over and over. And it's not just with the rep. It's with several organizations. And I know it's a tough time but it's a tough time for so many things, so many different programs, people, departments, services that we provide throughout our city. And I'm sure this is going to pass but unfortunately I think it's going to have to pass without my vote. So I'm sorry about that.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I certainly share the concerns that Councilmember Constant has just discussed. But I think that we have to look at what the alternative is. The alternative in this case is that the rep can't pay back the \$400,000, they go under, we don't get any of the money. I think this scenario takes responsibility away from the city on a line of credit, instead makes an obligation as a loan that actually has a realistic opportunity of being paid back. I think that's the more responsible course of action for us as a city if you want to get any opportunity for getting some of the money back that's been put into the rep and removes the line of credit which is basically revolving debt that the rep will have for the city for many, many, many years to come and actually gets them to repay the debt on a loan . So although it is a very difficult way to look at things in a micro-level when we look at the macro, we understand there are other organizations going through bad times. We are on the getting some of that money back is by converting this line of credit to a loan. And so I think that that's why I'll support the motion. It doesn't certainly make me any more comfortable supporting it with everything else that's going on in the city but I think it gives me some comfort to know we have a plan to get the money back and to remove the City of San José's obligations and responsibility away from the rep and start year after year put more of the obligation and responsibility on the rep itself. So I'll support the motion for that reason. Also I've had good discussions with Nick and others involved with the rep as to how we can make the rep a theater for the 21st century, I think a lot has

changed since the rep opened in terms of demographics in the city as well as need and importance of having a new generation of theater goers so that we're not reliant on a group that may very well be aging or may very well not represent the interests and likes of the City of San José, and expose a whole new community and a whole new generation to theater, in a new and fresh way and I appreciate the discussions that I've had with Nick and others on that and I'm hopeful that with this new financial relationship we can also create a new working relationship with the rep in ensuring that it's successful in its ability to pay back the loans, pay back the loan over the years and to completely extricate the City of San José from any financial responsibility with the rep going forward.

>> Mayor Reed: I'll take some public testimony at this time. Bobby Yont, Trisha McDonald, David Wall.

>> I'm Bobby Yont, I'm here on behalf of the arts commission representing the arts commission and I reside in district 10. The arts committee, I'm sorry the arts commission vetted and discussed this restructuring of debt at our October 12 meeting. As a result of that meeting, the proposal, the recommendation that's in front of you today was approved unanimously by the arts commission and we subsequently forwarded our position and our reasons for supporting this recommendation to each one of you including the mayor, at that time. As stated, we think this is a good idea. This has been a situation in which we've had some discomfort on both parties for some time. This is a viable solution. It assures that the city has a much better chance of being made whole in this situation. It also protects an important and viable and exciting theatrical group in this city and certainly not least, it assures that we'll have the continued economic impact that the patrons of the San José rep provide, and so we ask for your support of this recommendation. Thank you.

>> Mayor Reed: Patricia McDonald, Sharon Kirsh and David Wall.

>> Mayor Reed, honored colleagues thank you for allowing us to speak today. I come before you to support what Mr. Yont has just said to you. I'm a fellow commissioner. Today I have noticed senate word innovation has brought up quite a few times with the council. We do talk about ourselves as the heart center of innovation and the capital of Silicon Valley much, where do we think creative thinking starts and creativity but in the arts and San

José repertory theater and their red ladder group starts with youth and brings it forward. If any of you have been watching the group over these last couple of years, their reinvention and making it work and incredible. The last production people could not wait to spring up from their seats with applause and the bravos. Please consider approving this. It is a win-win for the city and for the citizens and for the San José repertory theater.

>> Mayor Reed: Karen Hirsh and David Wall.

>> Mr. Mayor, members of the city council, good afternoon. I'm Sharon Kirsh. I'm auto honored to be here to speak with you you. I'd like to start by thanking you and the City of San José for its support and assistance and in particular over the last five years. When it partnered with the rep, so that we could continue the tradition of inspirational, live professional theater in San José, thank you for considering this proposal and I urge you to approve it. When San José rep came before you, five years ago, we came asking for an opportunity to get our house in order. We would want the opportunity to continue the tradition. Since we were here before, the trustees and the staff have worked very hard to build new systems and structures to support the turn around of the organization and we've made great inroads in that. The improvements in financial transparency, communication and budget oversight provide a sound reporting mechanism so that trustees can monitor the rep's finances in a timely and effective manner so that we can make mid course corrections if those are needed. This proposal will enable the rep to begin to implement a plan to eliminate its debt, and trust and confidence in the rep's long time supporters. This will increase the rep's abilities to attract external fundraising which is very important. The rep with stakeholders and the city as its partners will continue to help shape San José as a great American city, artistic and prosperous with professional live theater that produces award winning productions, that reflect the creativity, energy and vitality of San José, and that touch the human spirit and build our community. The rep will not let the council and the community down.

>> Mayor Reed: I'm sorry your time is up. David Wall is our last speaker.

>> David Wall: I have watched the San José repertory theater since the hammer administration and at no time were they ever financially solvent. As a matter of fact they are a huge sucking sound of taxpayer money and it

continues to this day. But I'm taken aback by mayor's testimony that he was associated with it 29 years ago on the board. And seemed the last 13 years in the saddle, council and mayor, I've seen how the city has deficits and the City's been basically run into the ground and now the opinion that the city was basically responsible for the rep's failures and not the rep itself. In addition that they should be applauded is the fact that they have created a new business model in creating San José State university's drama department. speacialt into high schools within the City of San José's drama department. I'm not any at all swayed by the numbers of \$9.1 million generated or the 75,000 patrons coming to the rep. Clearly the patrons that come to the downtown are for those night clubs that you've given carte blanche and tied the San José police department's hands and arresting drunk in public and all kinds of nefarious incompetent financial decisions over decades and even today, rewriting a loan for approximately 25 to 26 years. I would imagine people in this audience would like to have a variety of loans written that way. In closing you could actually help pay down the rep's loan by eliminating your funding allocations for the office of cultural affairs in its entirety. Thank you.

>> Mayor Reed: That concludes the public testimony. Any additional council comments or questions? I see none. I see a motion to approve the staff's recommendation on the motion, all in favor, opposed, one opposed, I count one opposed and one absent. So that motion is approved. That concludes our work on item 4.2. Moving along to item 6.1, pavement maintenance program status report. Take a minute for the staff to get in place. There will be a staff presentation.

>> Hans Larsen: Mr. Mayor, members of the council, I'm Hans Larsen, director of transportation. I have for you an informational presentation on our pavement maintenance program. The intent of the presentation is to give you a status update on where we're at, and the next steps that we discussed recently with the transportation and environment committee. As the council will recall or most of you, we had about a year ago we had a full council study session on the topic of pavement maintenance. Where we're at, our conditions, some of the strategy on how we can address improving our roadways. We had a follow-up report earlier this month with the transportation and environment committee. Just to do a one-year update from the study session report that we did the previous year. And we focused on two things. One is to update us in terms of the conditions of our pavement maintenance system and the trends that we're looking at, and unfortunately the trends are not good. I'll highlight those for you

quickly. We did discuss identifying a series of next steps that would allow us to consider the issue of priorities for street maintenance. I'm going to highlight for you in a moment that the amount of money that we're projecting that we have in the next five years is about 15% of the need to maintain our streets in good condition. And so one of the policy questions we're raising, we don't intend to solve it here today. But we're laying out a process in which we would address the concept of setting priorities for limited maintenance funds. Terms of the status, it's important to recognize how large our street system is. We have almost 2400 miles of streets, that if you lined up all of San José's roads, it would take you more than halfway across the country. We have a condition of our roadways that's declining primarily because of age. A lot of San José streets were built 40, 50, 60 years ago and they are at a point where they need significant rehabilitation. Unfortunately we haven't had the money we needed to provide good preventative maintenance. We have had significant deterioration of our streets. We are looking at decline in reference and while we're getting good bids on pavement maintenance projects now, overall we're seeing trends where cost for pavement maintenance work is escalating. Unfortunately San José has among the worst conditions in the Bay Area. We rank in the bottom 25% of all jurisdictions in the Bay Area, and within Santa Clara County, we rank at the bottom of the list of all the jurisdictions, certainly within our Silicon Valley neighborhood here. As I mentioned, we should be spending about \$100 million to improve our system to a good condition. These are numbers we discussed last year at the study session. And unfortunately the level of funding that we have available forecast for the next five years is about \$15 million or about 15% of the money we need. We are seeing a trend of our backlog of deferred maintenance is growing. Over the last year it grew from \$250 million to \$277 million and more streets are falling into a poor condition. Last year we had 425 miles, about 18% of our streets, now that has increased to 21%. The key issue that's driving this is really a lack of funding for investment in proper pavement maintenance. This chart illustrates about a 20-year time frame of funding. It looks back 15 years, and forward five years. So if you look towards the right, the period that has the lowest bar, that's where we are today. We'll see a little bit more money in the next few years, but overall, that represents about a \$15 million annual investment. The -- a couple of things to point out is the red bars represent the level of money that the city has dedicated for pavement maintenance. And you can see in the past we provided both developer fee funds and General Fund dollars. We're currently at a situation where there are no General Fund revenues going to pavement maintenance. Future \$1 million reference we have comes from our traffic capital improvement program. The green represents a roller coaster ride of regional moneys, state and federal dollars. And they don't

come in on a consistent level. The most recent dollars that we saw there came from the federal stimulus program, where we received over \$15 million that we spent over the last couple of years. The yellow is a relatively new source of fund opted blue lines on there is a new source of funds that starts next year and this is because the voters in Santa Clara County approved taxing themselves to assign a \$10 vehicle registration fee that can come to cities for pavement maintenance. We expect to receive that next year, that will be about \$5 million of new funding for pavement maintenance. This pie chart indicates where the moneys are expected to come from over the next five years. You can see the yellow and green represents state and federal gas tax revenues. So most of the money we get is from there. The blue is the new vehicle registration fee and the red represents discretionary city funds. The concern I wanted to raise. About the gas tax revenues is that this is a declining source of funding, that due to the economy there is less gas tax being generated, and this is kind of a good news-bad news situation, is that as vehicle mileage standards are increasing, which is a good thing, we're going to be seeing less gas tax revenues coming in April and as more people switch to electric vehicles which is something we're actively encouraging, that also affects gas tax revenues as well. So we're sitting on some resources that really are in decline. And that's the other troubling piece of news. As we mentioned, last year at the study session, we projected where we might be in ten years, based on current levels of funding. And as I've mentioned we've crept up this chart with the number of percentages of streets in poor condition, going from 18 to 21%. In ten years, with the current level of funding we can see more than half of our street falling into poor condition. And having a backlog of maintenance needs, really, the cost to recover exceeding \$800 million. We've done a lot of work with the assistance of the attorney's office in looking at different ways in which we can generate money, particularly at a local level. And our conclusion is, is really our best approach is to consider a new parcel tax and bond measure which would allow us to front-load some of the work. There's been a lot of work looking at user fees and special assessment districts, street impact fees. Unfortunately because of the restrictions, with Prop 218 and within the California vehicle code we really have our hands tied in terms of having much flexibility in terms of revenue sources. So again we look at the bond program on a parcel tax which is something that we used with great success as part of the decade of investment where we invested almost \$600 million to improve libraries, parks and our Public Safety fasts and community centers. So that investment was about \$600 million. If we could get something close to that, that would really you know address the issues that we have for transportation infrastructure. The question of how do we deal with the limited moneys that we have, some of the discussions we

had with the transportation and environment committee in framing this really focused on perhaps looking at our major street system and about 87% of the traffic in San José is using about a third of the streets. And so really, all of our residents and businesses rely heavily on our major arterial streets and that's where most of the traffic is. So one strategy is to focus our limited resources on the streets that have the most traffic. Another strategy that's been discussed is looking at a strategy for part of the city that help support our economic development. These are our job centers like downtown, North San José, Edenvale, our shopping districts which bring in a set of revenue . Our other streets we have are local residential streets, and about two-thirds of the streets in San José are local residential streets where people in our community live. I think the real challenge that we have, with 15% of the money, it's probably very difficult to put any kind of program that focuses on local residential streets, and so I think that's one of the real challenges we have, is where do we assign the limited resources. In terms of next steps, we discussed with the transportation and environment committee really a couple of approaches. One is we need to aggressively continue our legislative advocacy to try to bring in new revenues or new opportunities. One of the leading prospects is a piece of state legislation that was introduced this last year by assembly member bloomenfield, called assembly constitutional amendment 4, and this would allow the voter approval of parcel taxes to be reduced from the current two-thirds requirement to 55%. And this is an opportunity that schools presently have. This is -- it got through a committee, it's been extended as a two-year bill. The city council has supported this legislation. And so we would look to continuing our advocacy towards that bill starting in January for the next legislative season. We have been successful at the regional gas fee which is something that the metropolitan transportation commission is looking at. On the issue of priorities I think what we framed up with the committee is looking at the major streets, the streets that carry the most track, the areas that promote economic development, there's been the idea of should we promote streets that help our -- meet our sustainability goals, looking at streets that carry the transit vehicles and bicycles, certainly cities like San Francisco have adopted sustainability priorities for their pavement maintenance dollars and of course it's important to recognize a geographic balance across our city. I know Councilmember Rocha has submitted a memo on this issue, kind of focusing and as we look at these alternatives that we consider major streets, and major streets and residential areas, and particularly major streets that have front on major developments. So that is a propose to take a look at. What we are suggesting or recommending is that we come back to the transportation and environment committee and council in the springtime frame. The T&E committee recommended a March date which we can

support where we would look at providing the committee and council a series of alternatives regarding the issue of priorities where we would be able to say, what is a major street focus look like. What does an economic strategy focus look like what does an economic balance option look like and then we would take that forward to get some policy direction from the council. So that concludes my presentation. Again we wanted to just update you on the work that we're doing on this important issue and if you have sort of additional comments or questions for us, myself and my staff are here to address that, thank you.

>> Mayor Reed: I have one request from the public to speak, I'm going to take that before we get into council discussion. Mr. Wall.

>> David Wall: I'd like to compliment and thank the director of transportation approximately although his attire does not lend itself conducive to street repairs, his testimony to council committees was very enlightening and very on point. There is one refinement that I would like to make in his plea for a parcel tax. Reformation or reformulation of parcel taxes is what is needed. What I mean by that is a parcel that has a high density living project pays a fee but that doesn't necessarily incorporate everybody that thrives versus a single family home residence pays a fee. I suggest you reformulate the parcel tax to include every single living unit. Therefore the tax would not be oppressive or burdensome. You could raise money to fund the street repairs but above all you could get a twofer or threefer out of this because if you are going to rebuild the sewage treatment plant you got to dig up the streets to rebuild the collection system. And to rebuild the collection system for the storm drains and for the sewers are part and parcel of a city. Anything that's made by the hand of man deteriorates and breaks. This is a perfect opportunity to fund street repairs, rebuilding of the collection system, be it sewage and/or storm, and hire literally tens of thousands of people under a variation of the works projects administration. This type of creative funding would be in keeping of fairness to all parties concerned because everybody would pay basically the same fee who lives here in a living unit. Without this what the director said, he is correct. The roads will collapse.

>> Mayor Reed: That concludes the public testimony. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, thank you Hans for the presentation. I just have a couple of questions. In the memo it talks about the Monterey project which is set to start this fall. I was wondering has it started yet and is this the entire road or just partial?

>> Hans Larsen: Vice Mayor Nguyen, yes, it is under way, be Councilmember Kalra has a groundbreaking for a pavement maintenance project. It's underway right now, should be done by Christmas. The limits of the project is sort of the bumpiest section of Monterey highway which is from blol Blossom Hill to Bernal.

>> Councilmember Nguyen: You would start north to go downtown? If you cover the entire road looking at different parts of it that need to be resurfaced?

>> Hans Larsen: Yes, certainly on the overall section of Monterey highway, the Monterey highway not of Blossom Hill road is within CalTrans jurisdiction. There is an effort we are relinquished from the state to the city. And we are in negotiations with the state to actually receive some funds that would allow us to do pavement maintenance work on that. So we hope to have some report to council if everything goes well, I would say within the next three months on so on that topic.

>> Councilmember Nguyen: Okay. And then you talk about various options for potentially raising revenue for pavement maintenance and restructuring. I guess in the memo it talks about a potential parcel tax and bond measure. I was just wondering if your staff or anyone has done any kind of survey or polling to see if residents are opposed to such a measure or parcel tax?

>> Hans Larsen: Yes, we had sort of recognize this is a very difficult time to try to go to the voters particularly on something you need two-thirds approval. The past polling we did on this about two, three years ago, actually better economic times, indicated public support about 58% level for a parcel tax. Certainly didn't meet the two-thirds criteria. That's the reason why we put a lot of emphasis on ACA 4, which would lower the threshold which would perhaps put us in the range where we would consider if that's the direction council wanted to take, a parcel tax for pavement maintenance.

>> Councilmember Nguyen: And then finally I believe in San Francisco next month there's going to be a tax measure or a measure on the November ballot dealing with this particular issue. I assume that's something we're going to pay attention to to see how voters are going to respond to that measure .

>> Hans Larsen: Absolutely, yes, the City and County of San Francisco does have a bond measure on their November ballot for pavement maintenance and other street related improvements.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Speak to the memo that I had submitted and explain a little bit to my colleagues and folks. Really, the general reason why I was submitting this, and what I was intending. As a discussion came forward, Mr. Larsen provided the 85-15% split in terms of where we're spending those pavement dollars, is that correct?

>> Hans Larsen: We -- there are -- I know we discussed a couple of things. Generally, the pavement maintenance funding split that we've had really going back the last ten, 15 years has been allocated generally evenly between major streets and residential streets. We had a program where we went through all the residential streets in San José, it was our ten year backlog recovery program which took 14 years to complete. But we were completing -- completed that this year. I think the other question you had is, you know, the traffic, the use of our streets. If I'm interpreting your question right, is that about 80% -- 87% of the traffic in San José is on our major streets, which is about a third of our street network.

>> Councilmember Rocha: I was referring more to the recommended direction, if I recall correctly from the committee discussion where you had recommended spending potentially 85% of the dollars towards the major arterials on the street pavement funding. Is that correct?

>> Hans Larsen: I don't recall that specifically but we did have the discussion about the -- if we take the alternative of putting the pavement maintenance dollars on the streets that carry the most traffic, that would be one of the scenarios that we would like to take a look at.

>> Councilmember Rocha: Page 10 of 10 where you have 15% of needs by selecting a set of priority needs, envision 2040 plan. And supporting economic development and multimodal transportation.

>> Hans Larsen: Yes, that's one of the key issues, that we have only 15% of the money to maintain the street in good condition so where do we apply the 15% of funds is really the key policy question that we're raising and the analysis of alternatives that we would like to do from now until the springtime.

>> Councilmember Rocha: Sorry I was not clear. The 15% of prioritize those dollars, the remaining minimal funds that we have and my concern reading through this was that it appeared to me that a lot of the dollars would be spent on areas that didn't serve purely residential or local streets. And I spoke in the meeting about my concern for focusing too much attention there and I asked us to consider looking at when we do identify those streets, that there's a lot of streets that not only serve those areas but they're also primarily and you could target ones that are residential-focused, streets or I'll use an example such as meridian or Hillsdale or Lee which are primarily residential frontages and I'm sure there are streets in every one of our districts that are primarily residential serving but that also front commercial areas. And that in my mind would be the best of both worlds where we have a win win for both, where we have streets that provide interest is more of a stronger statement that said we'll make an effort to look for those streets, not as a third or fourth or fifth priority but actually as a first priority, if we can do both, I can't imagine any better outcome. So that was the interest of my memo in trying to focus my attention on that. I'm not suggesting that we ignore any of the priorities that you listed or the criteria. I think they're all valid and all good and I thank you and your staff for this work and the time you took to sit down and talk to me about this. These are limited dollars and if our residents are funding a good amount of this and that was another issue and not to go on a tangent was trying to identify where all these dollars are coming from. Because if they're primarily coming from residents and not from the community, equity at some point

becomes an issue and if a lot of the dollars are coming from just pure taxpayers and residents of San José at the end of the day, I know these are state and federal developer fees but you can make the case that a lot of these developers are residential equity and I'm also looking for making sure that our residents are served because if we do go to the Vice Mayor's point at some point in the future go to the ballot and ask our residents to pay additional fees, to fund pavement management, my guess is, they're going to want the roads that serve them a priority. Not the ones that serve the corporate community. And if they're the ones that are going to be taxing themselves I think we ought to be making an effort to keep that in mind. That was a long story of residential serving that also serve the other needs, so I'll stop there, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I appreciate Councilmember Rocha's further clarity and request for specificity as to how we target some of the funds and I agree with his statements. In regards to Monterey highway I just want to thank Hans and the team for focusing on Monterey, the stretch that was paved is routinely ranked as one of the worst ten roads in the Bay Area. And so there's a new technology being used, cold in place technology which essentially comes in far cheaper than expected, much faster, and it's much better for the environment. Because instead of trucking in new gravel and tar and ought the necessities for creating a new road, it actually grinds up the road in place and replaces it right on the spot it's amazing technology, the first time in the city it's being used, that's why it's coming in so far under budget and that's why it's being done so quickly. I hope this is the first of many opportunities we have to use this new method to really stretch the dollars we have coming in much further. And in terms of you know, the taxes and we see that you know time and again when it comes to projects that actually have a very clear benefit to the community, taxes do get improved and I think particularly in our city we have with a very lean D.O.T. staff and with very -- with very efficient use of the funds I think we stretch our dollars here probably better than most jurisdictions. So I think we have a much stronger case to make as to how we can use these funds in a way that truly benefit the community and benefit the neighborhoods building and maintaining roads is a core function that I think with the example of Monterey using federal funds can be done with the now supplement in state funds that's now in place after you know we got rid of the vehicle license fee which was a huge blow to our economy in the State of California. Now that we've gotten a small little sliver of

that money back to pay for road maintenance I'm hopeful that we can start to make progress on some of the projects going forward in the city and start to highlight some of the areas that have the greatest need.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. Next time you want to have a groundbreaking I suggest you amend it to ground mending celebration since the ground is broken and we're mending hands thank you for the presentation. I've been complaining about our roads, not specifically because of your performance I might point out but our infrastructure and our attention or lack of attention to infrastructure and a lot of it's driven because of all of our other issues and needs. Going back, I'm trying to remember when we had the discussion about the long term needs, if I recall the conversation was something like if we invest \$100 million a year for the next ten years, then we'll only need to invest about \$90 million a year thereafter, to kind of keep on track because that number was targeting getting to a pretty good level but not getting all of our roadways repaired. But if we really wanted to do the entire deal it would be \$100 million a year for ten years' and then is my recollection correct? Or close?

>> Hans Larsen: That's generally correct. So then the ten year strategy if we could have \$100 million a year for ten years, that would actually improve the condition of our roadways up to what's considered a good level. And largely eliminate the backlog of deferred maintenance that we have. Really, the question of sort of what's standard do we want to have our streets in, and certainly there are jurisdictions that have roadways in very good condition. And so if we wanted to aspire to higher levels of smooth streets in good condition, you know there's more that we could invest. But we think the \$100 million level for ten years is a good and reasonable goal for the City of San José.

>> Councilmember Constant: Thanks, unfortunately those communities surround District 1 so I hear about it a lot. Because it's very apparent when you enter and leave our city. So I guess my question, I've got a couple of questions about this and about the potential bond and other issues. But obviously, we didn't make any progress last year. Or this fiscal year. We're not going to make any progress next fiscal year, it's pretty clear because we

can't get a measure on the ballot even if it were to get -- even if we decide that's what we wanted to do, even trying to -- and assuming it would get approved it's not going to happen by next year, next fiscal year. So when we get to that point at three years or potentially four years from when you made these estimates, where are we likely to see that annual investment number be? Have we thought about that? Are we simply going to try and compress that ten-year down to 7 to make up for it or are we assuming it will be a ten year rolling period but several hundred a year, maybe 10 million a year, have we looked at that?

>> Hans Larsen: Clearly the longer we wait the more deterioration occurs and the more expensive it is to recover from that. You know I think just looking at the example of just the last year as we went from 250 million backlog to 277 million in a one-year period, you know, the trend line is generally a straight one. Although it does accelerate a little bit more, the further that you go out. And so you can kind of extrapolate to really it's sort of a council discretion on sort of when to move forward in considering something like a parcel tax. But certainly you know the time is not our friend on this issue and the sooner we can address it, the better.

>> Councilmember Constant: So if you can click over to the -- you had a slide where you had the three bond measures that added up to \$599 million, I think was the number. Yeah, that one there. So those three bond measures do we know what the cumulative amount of that parcel per parcel was or would be for a measure of this size?

>> Hans Larsen: I don't know specifically for these, and sort of depends on what the -- kind of the pay-back period is, but as I recall the discussions that we had at the study session a year ago, that we were look -- if you took -- if you looked at a parcel tax scenario and you treat every parcel in San José equally, which probably wouldn't be the right way to do it, that you know it would be something in the order of to generate \$100 million a year, it would be something in order of three to \$400 a parcel. One of the things that you know we've been working with other agencies like the City of San Francisco that are addressing this issue, and what they -- what they have contemplated with a parcel tax is that they look at trips generated by certain land uses, and so they have a higher rate on some of their commercial developments on a lower rate on the residential developments. I would imagine we would, you know, analyze something of that nature.

>> Councilmember Constant: Okay. So I just want to make sure that I misinterpreted this slide after hearing what you said. So you're not saying that your goal had to be \$599 million, this is just illustrative of what the entire problem?

>> Hans Larsen: Yeah I think the goal we have been focusing on is \$100 million a year for ten years. That's a billion dollars that is total but I think the thing to keep in mind is that we do have moneys that we get from regional sources and as I recall the discussion from the study session is that because of two-thirds of our streets are local streets it's difficult to get regional agencies to invest in the cul-de-sac in San José. It's likely that we need to assume we need to address about two-thirds of the problem. And about one-third we can work to leverage regional state and federal dollars to help with more of the major street side. So you know that would translate into something close to about \$600 million as being a San José responsibility over a ten year period.

>> Councilmember Constant: Okay and just two editorial comments. One is, if we determine in the future that we should go to the voters for a bond measure, I honestly think if we're going to do that, then we need to address the sidewalks, curbs, gutters, the areas that our residents are being hit significantly with. Because of a lot of times, because of issues that are outside of their control because of trees that were planted, because of city requirements and city species list that did damage. I have homeowners that I get so many complaints about, you know a couple of the more vocal folks and I think if we're going to go out and ask our community to invest, that there needs to be a way for us to look at resuming those responsibilities, and catching up on all those. Because there are going to be people that are stuck with three to \$5,000 repairs on our curbs and gutters that are in front of their house, plus the three or four or five or whatever-hundred-dollar amount every single year on their property tax bill. So I think we need to look at that if we have any chance of really increasing the voter turnout. And then just my last comment. I surely think that the recommendation from Don is good to look at and evaluate as it returns to transportation and environment committee. But I really think that we, my vote would be to really concentrate on those areas where the 87% of the traffic is. Because we know those areas are the areas where the deterioration is likely to accelerate on a much faster rate than the areas that receive much less traffic. And we

know as the roads deteriorate, the cost of repairing them does not go up in a linear fashion, it goes up in an exponential factor. .

>> Hans Larsen: Mr. Mayor, the Camden avenues, the Hillsdales, the Meridians, we would consider those as part of residential frontages, serve residential areas that's part of our major street system. What we referred to as local residential streets are more the streets that are carrying you know -- that are nested within the neighborhood and just carry local-serving traffic. I thought I just wanted to clarify that point.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. So what I'm gleaning from all of this is by 2020 we'll have \$860 million or we will be \$eight 60 million in arrears with our maintenance backlog.

>> Hans Larsen: That's correct.

>> Councilmember Pyle: Not a pretty picture. I was wondering too about new materials for roads. I've been hearing this in some of the magazines I've been reading, some using tires for is that what you're using Councilmember Kalra?

>> Hans Larsen: Yeah, we certainly take pride in looking at you know the latest and greatest and you know being the innovation center of the universe here in San José and Silicon Valley. We pride our cells in looking at ways in which we can be most efficient and most green in our pavement maintenance work. And I think example of the project that's under construction on Monterey highway, is an example of where we're recycling the asphalt, as part of the single process and then we're overlaying the street with rubberized asphalt. And that one project is going to be recycling 17,000 tires as part of the surface treatment. And that project is costing 23% less than traditional pavement maintenance projects. So it's an incredible opportunity both to be efficient with materials, be green, as well as save dollars.

>> Councilmember Pyle: And be state-of-the-art. This is great.

>> Hans Larsen: I made add that we're -- Gary Richard of the Mercury News was out there with our contractors and staff late last week and we can expect to, I think there will be an article on this project coming up in the Mercury News perhaps later this week.

>> Councilmember Pyle: Oh, great, we'll look for that. I wanted to talk to you about something that's been sort of a pet peeve for quite some time and that is the fact that we have oil extracted from our state and nobody pays a fee. There is one other state that does this, I can't remember what the take it is but I'll look it up. So we're having oil taken from the state which from my perspective belongs to the residents of the State of California. And it is helping millionaires to become billionaires. They don't even live here, the people that own the companies and for some reasons it has always been on the back burner in Sacramento. So this is something that might be a consideration you know I had done a position paper on this about six years ago, I'll have to drag it all up again. It is my estimation that taxpayers would be even more willing to go for that since it's something that should be done anyway. It's just a case of fairness. Fee for service and a fee for product. So I just wondered if that had been considered at all.

>> Hans Larsen: I know that it's being considered throughout -- at a state level. I don't know what the status is.

>> Councilmember Pyle: Okay.

>> Hans Larsen: The governor considering it or if it's part of they legislation. But from a personal perspective.

>> Councilmember Pyle: Commercial streets too that Don Rocha, Councilmember Rocha brought up. I think that makes sense as well. So thank you. Appreciate that.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor and thank you Hans and I think this has been a good discussion for the council to look at this again. I think it puts this issue back in front of us and I agree with Pete. We have to continue to ask ourselves about this because I think it's really critical. And I appreciate Councilmember Rocha's request really for clarification. We think of a lot of this as economic development and some of the other priorities in here, I think really the main priority is the major streets and some of those are residential as we pointed out. So 87% of the traffic going on these streets, and I think anybody living in a small residential street is very concerned about the streets they have to drive on every day. And what kind of condition they're in. Because as we heard people are paying something like \$400 out of their pockets every year because they're running over these bumpy streets and they're causing, you know having to do more frequent wheel alignment and other things. I think I recollect that, is that true Hans is that the right number or something like that?

>> Hans Larsen: Yes? There's been national studies that indicate the cost to motorists of driving on bumpy roads is something like seven to \$800 a year.

>> Councilmember Herrera: I underestimated that.

>> Hans Larsen: Wheel damage, wear and tear, need for front end alignments, things like that.

>> Councilmember Herrera: So actually, spacial tax may be a bargain in terms of people having to realign their car. I think what Councilmember Rocha is raising, I don't see much difference and I think what you are saying is you would take what he is offering in his memo into consideration as it comes back to T&E, right?

>> Hans Larsen: Yes, thairk.

>> Councilmember Herrera: So I'd like to make a motion to move staff's recommendations and also address the concerns in Councilmember Rocha's memo to come back to T&E. If I can get a second.

>> Mayor Reed: Might be a second somewhere. Okay we have a second. There's a motion.

>> Councilmember Herrera: Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Going back to the slide that had the pie chart, Hans well first of all thank you for the work that you all have done. And I know we've had long conversations about what the future holds for our roads and it doesn't look good unless we start doing something about it. But would we be placing the developer fees in the red portion of the pie chart? Is that where -- is that where developer fees would be accounted for?

>> Hans Larsen: We currently have development taxes. So on new development, that support the programs, and the City's traffic capital improvement program, and there currently is \$1 million out of that revenue source that's allocated to pavement maintenance.

>> Councilmember Campos: So that would be the city development portion, is that correct? And can you use that for just general upkeep of the roads, or does that have to go to improve an intersection that a new development would have, you know, would bring more traffic to, or the development of that -- of actually new roads if you have a new development, where you know you've got acres of empty land and you're bringing in a new tract or business?

>> Hans Larsen: You know, these are -- and there's new development in the city, there are -- there are taxes that they pay that go -- that are for general purposes. And so we have discretion in terms of how we allocate these moneys. So council has discretion to put these funds in pavement maintenance or other transportation program. And currently, the budget in the five year CIP that we have, has \$1 million allocated to pavement maintenance. So it's not tied specifically to an individual development. We have discretion on how we use those funds.

>> Councilmember Campos: So is that \$1 million annually or is \$1 million in there and council --

>> Hans Larsen: These are annual dollar amounts. If you look now and for the next five years, the source of funds that we have allocated to pavement maintenance are from these sources here shown on this chart.

>> Councilmember Campos: Okay. And so that would be on top of whatever they're conditioned to improve. So if there's a new development that's going on, White and Story Road, and part of the conditions are, in order to approve this you're going to create more traffic, you need create a couple of more turning lanes in that intersection, so on top of that they also have to contribute to this fund, is that correct?

>> Hans Larsen: Well it's not this fund but yes, what you mentioned are mitigations that are tied to a certain development so those are separate. So they -- in addition to their project mitigations they do pay some general taxes, to the city, for other purposes.

>> Councilmember Campos: Okay. Is so if development increases dramatically, would we see this fund go up?

>> Hans Larsen: So the source, the revenue source that we have yeah, is tied to development activity. And then council has the discretion, you know, we make recommendations on how we would allocate those funds. And that comes to the council each year. So I think if we look historically, if you go back to this slide, you can see the red is much higher in past years. And that's because we did allocate more of our traffic capital revenues towards local pavement maintenance. I think Deb, City Manager may have some comments.

>> City Manager Figone: Yes and I might be incomplete in this question Hans but pretty much we're talking about the construction excise tax dollars.

>> Hans Larsen: That's correct.

>> City Manager Figone: I think what you're trying to say is this is a general purpose tax which is subject to council allocation. This is less money than comes in currently but we've had to use construction excise tax to help pay for other areas of D.O.T. over the past few years. So that's why the amount is \$1 million but actually you're correct, councilmembers, construction activity picks up, there will be more and there is more than this currently that's shown in the budget.

>> Hans Larsen: That's correct.

>> Councilmember Campos: Okay. So with the new development over the last year and a half and hopefully you know going into the future of North San José, the Irvine project and those projects over there, would we anticipate probably more than \$1 million going -- coming from the -- is it --

>> City Manager Figone: You'd probably get more tax in. The question is what would the broad set of needs be and how would we recommend it being spent.

>> Councilmember Campos: Okay. The reason why I'm asking that is along with Councilmember Rocha's memo I know all of us have these -- they're not necessarily these two-lane neighborhood streets but they're the four-lane streets that predominantly has you know houses on both sides. Councilmember Rocha has meridian and Hillsdale and some others. I've got Jackson, story, white and so forth. But some of the roads that we're not thinking of, I know it happens in all the other districts and I'm sure it drives planners nuts when they're trying to prevent cut-through traffic, and I think cut-through traffic that goes into residential, if you go down those streets, you will see that those streets have deteriorated much faster than other streets that are just, you know, that are in the middle of a neighborhood where the only people that go on those streets are, if you live there, or if there's visitors that are coming to your home, those streets tend to be in a little bit better shape. So along with the memo that Councilmember Rocha put out, I would like for further analysis to be looked at these cut-through streets. Because the reality is and if I was living on one of those streets, and it's in front of my house and my road is deteriorated because of unintended uses, because we've never intended anyone to replace a residential street for a main thoroughfare. But it happens because people want to get to their destination faster. That's you know that's the

unintended consequence. I would want to you know I'd be thinking well I'm taxpayer. Why that street and not my street? So -- and I know what we're needing to prioritize but I would appreciate some analysis on the cut-through streets as well. And I'm sure all council districts have them because there's a number that are falling apart and are probably getting close to complete reconstruction. Because they're so bad. So those are my comments. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Thank you Hans for the presentation and all the questions from my colleagues. I think at the end is so little money and we're going have to validate each and every road but the fact of the reality is we're only going to do a fraction of them. So whatever this policy decides it's going to have a major impact for all portions of the city. I think road paving has more opportunity to pass for a tax measure than other things because it's concrete, people think we'll get things no it is not concrete, councilmember but I do have a roadway I would like to talk to you about but you've talked about, newer materials would reduce the cost and obviously that's a good thing. Now City Attorney on the last meeting I had on a committee level I asked the question, can we use CDBG funds instead of funding social programs that are more for the county, use all those funds to fund for example ADA ramps in the city, and the answer was yes, you could use 100% of CDBG funds to fund ADA ramps where it was able meaning, streets in neighborhoods that had census tracts of a certain income level could I use those same funds to pave the road on those streets?

>> City Attorney Doyle: I don't have an answer for you off the top of my head. I think it's same logic though, certain areas qualify but we'd have to get back to you on.

>> Councilmember Oliverio: as to the maker of the motion would you have to add certain language to qualify under CDBG?

>> Councilmember Herrera: I don't think we're setting priorities. He's going back and looking and analyzing and bringing it back to the committee.

>> Councilmember Oliverio: If part of that analysis would be --

>> Councilmember Herrera: I'd want to ask Hans what he thinks before I would accept that friendly amendment.

>> Councilmember Oliverio: Just so it's clear Hans you have X amount of funds, you don't have enough. There's oop amount of money buy you as far as road repair and not knowing what that number is but it's in the millions.

>> Hans Larsen: The question is CDBG, I can answer that. We have received CDBG moneys. I don't recall if it's preventative sealing maintenance, but when we had streets needing reconstruction or major rehabilitation we have received CDBG funds for that in the past. I think question that we're trying to address is with the gas tax moneys and the other city moneys that we have that are regularly dedicated to pavement maintenance, that 15 million, how do we use that? That's what we're proposing to address. If there are other city funding sources that could be used for this, I think perhaps that's another question, and perhaps a different group of stakeholders involved with that.

>> City Attorney Doyle: And I know as Hans spaicted he's been working with my office on this issue very closely. I do want to caution and this is something we'd have to look as well as that is bond proceeds. It may be similar to the CDBG moneys that tax exempt bond proceeds can only be used for capital repairs or G.O. bonds. Only for -- excuse me, replacement and capital improvements and not maintenance and repairs. Where it qualifies those are things that we would have to look at as it comes back as a part of a full program.

>> Councilmember Oliverio: I think it's important to clarify those questions early so we lay out the budget have that option. Because if someone's going to tell me that I have the option of paving X amount more roads than I have today and this is the tradeoff I would certainly want to know that because that is something I think the residents would rank up there as an extremely high priority. Mayor on your leadership we've been pursuing getting another representative for San José on MTC. And Hans, mayor, part of the pleaf is if we had better

representation we would be able to obtain more of the grant funding that comes from MTC, would that be a fair assumption?

>> Hans Larsen: I would agree with that. In fact we had a lot of success in having MTC allocate more regional discretionary funds to pavement maintenance. Primary because we initiated a a local streets and roads committee that advises MTC. And so we have staff members that are pushing that issue. And so we've had success with that. I would concur if we had a direct representative policy maker on MTC that you know our issues on this topic we'd have another voice in that forum and that would be helpful.

>> Councilmember Oliverio: And are we stalled in that right now? On the extra position for San José and MTC board?

>> Mayor Reed: We are not stalled. We're moving slowly. [Laughter]

>> Mayor Reed: There is a bill in the legislature that got delayed, not stalled, in a senate committee at the request of a senator from San Francisco. That it not be voted on and be turned into a two-year bill. So that bill is to be taken up again by that committee real soon now.

>> Councilmember Oliverio: And what's the senator so San José residents can target their knees that senator?

>> Mayor Reed: Well the chair of the committee is senator Solinier and he held a meeting last month on that topic. That passed the senate 78-4, 70 a lot.

>> Hans Larsen: A landslide.

>> Mayor Reed: Yeah, it doesn't happen very often. Out of the assembly there is a lot of political support but it is because the.

>> Councilmember Oliverio: Mayor is that senator Leno?

>> Mayor Reed: Senator Leno is the senator who had it held up.

>> Councilmember Oliverio: That is the San Francisco senator that had it held up. That are.

>> Mayor Reed: Certainly. Councilmember Rocha.

>> Councilmember Rocha: Is that moving my memo which accepted the report with direction to include those?

>> Councilmember Herrera: That's fine. I think that's accomplishing the same thing so I would say I'd move your memo. That's fine.

>> Councilmember Rocha: Just had one clarification, thank you.

>> Mayor Reed: I had a question for staff on page 13. Councilmember Pyle pointed out that we could end up with an \$860 million backlog in ten years if we don't do something. That's -- there's a chart on page 13. So if we do nothing we end up with \$860 million of backlog, and 54% of our streets in poor or worse condition. So if that's the current trajectory?

>> Hans Larsen: That's correct.

>> Mayor Reed: All right. Math problem. Scenario number 7, which would lead to zero dollars in backlog in ten years, would require us to spend if I'm reading this right, \$130 million a year. For ten years. In order to get to that zero time backlog and zero percent of our streets in poor or worse condition. That's like the golden meteor lands in the plaza scenario and we have lots of money. But \$130 million for ten years gets us to the double zero. No backlog and nothing in poor or worse, is that the correct way to read the chart?

>> Hans Larsen: That's correct, yeah. This is the attached staff report from the study session from a year ago. The other things to note is that --

>> Mayor Reed: Yes, it is, 10-5-10, still a good number, \$130 million a year?

>> Hans Larsen: Mr. Mayor, another thing to note on page 13 is the PCI, pavement condition index. That would bring our streets to a better than good level. So good is at 70 PCI. So the overall quality of our streets would be even higher under that scenario.

>> Mayor Reed: Okay. Hmm so it's a triple win, no streets in bad crn, eliminate the backlog and move our streets to a higher than good stashed.

>> Mayor Reed: So that's \$1.3 billion, \$130 million a year for ten years. The base year of 2010. 1.3 billion, that's all we need.

>> Hans Larsen: Correct.

>> Mayor Reed: 1.3 billion. If you stay the same base year and ask how much money are we going to have to spend on retirement cost during that same time period, how much do you think it would be? You don't have to do that in your head. It's about 1.6 billion. So we're going to take \$1.6 billion and that's just the General Fund share. \$1.6 billion or so to put into retirement, and so my point is, that the retirement costs are draining money out of services and this is one of the areas that's been drained. Because the General Fund contribution is like \$1 million a year now, it's almost nothing left. And that if we can't solve the retirement cost problem we're never going to solve this problem. And the fiscal reform plan that we've adopted to try hold retirement cost down does not include any money for street repairs. That the tax measure that we're contemplating as part of that to avoid service level insolvency would be funds that just get spent for other matters, not necessarily for street repairs. So we are a long ways away from solving the street repair problem. And the amount of money that we're putting into retirement system is enormous. That's why we have to deal with that, in order to begin to figure out a way to deal

with the street repair item, as well as all the other items that we need to do. But there's no doubt that the enormous cost increase for retirement is hitting us really hard in other service areas which we all know. Unfortunately they're really big numbers. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. And thank you for those comments and putting them in perspective. Forgot to mention in the comments that got brought up earlier, talking about if there's increased development or when we have development those incur fees. I think it's important to remember that not all housing developments are equal. In that regard, all of the thousands of units we've approved for affordable housing all those are exempted. That is a perspective in there then it makes the money come from somewhere else.

>> Mayor Reed: I think we're at the end of this discussion for today. Is it is going to come back to committee. When is the schedule for it to come back to committee?

>> Hans Larsen: I think March.

>> Mayor Reed: Which committee?

>> Hans Larsen: Transportation and environment.

>> Mayor Reed: We have a motion on the floor. On the motion, all in favor, opposed, none opposed, that's approved. We'll see you during the budget process on this. That concludes that item. We have a few left on the agenda. Item 6.2 is next that's the agreement for ampco systems parking for the airport parking facilities management. Motion is to approve. Just want to thank the satisfy for negotiating to save some money, looks like \$154,000 savings for the airport that you've squeezed out of this, that's a good thing. Are there any cards from the public, no cards from the public. All in favor, opposed, none opposed, that's approved. Sen.one, actions related to the new market tax credit. We'll give staff a chance to get in place because there will be some additional staff presentation.

>> Good afternoon, mayor and city council, I'm Jo Zientek acting assistant director for the environmental services department and we're just here today to recommend some actions to close the cities first new market tax credit transaction to fund some construction at the environmental innovation center. Staff conducted a nation wide survey to find out how agencies across the country were funding facilities similar to our environmental innovations center and identified new markets tax credit as a common solution employed to fund these projects. In early 2011 the city executed agreements with national development council, and the legal firm cantor, Taylor, Nelson Boyd and Everett, to structure the tax credit for the environmental innovation center closed about \$100 new markets projects throughout the country and they're here today to answer any questions you may have. Gina Yuen and Gene Nelson from cantor Taylor and our chief is Rosa Sohn Tatari. Just a little bit about new markets. It was enacted by Congress in 2011. And it's administered by the U.S. Department of Treasury. It was created to promote economically distressed areas and this census tract that qualify for new market tax credit program financing. Annually the treasury competitively allocates tax credits to eligible organizations known as community development entities or CDEs and the CDEs then solicit private equity investment in exchange for tax credits over a seven year compliance period. The previous county actions on new markets just to remind you on May 2011 council adopted a resolution to establish, and there's a lot of acronyms in that, a qualified active low income community business, we call it a QALICB, and tax credits in this transaction. They also appointed the initial board members to the QALICB and gave us authority to negotiate agreements for the transaction. In June 2011 council gave us authority to execute j.P. Morgan Chase bank and the three CDEs that are allocating their credits for us, brown field revitalization, Northern California community loan fund and HEDC new markets. Just quick overview of the environmental innovation center. This is located at 1608 Los Plumas avenue on about four acres, it will be located approximately half a mile from the new Berryessa BART station. It's an old city warehouse that we're renovating to be the EIC as we call it. It will house two anchor tenants. One is the county household hazardous waste program. We don't have a permanent household hazardous waste program in the city, one of the few cities in the community that doesn't have this currently. That will fill the gap. That's been about a ten year horizon for that project. The second tenant is the habitat for humanity restore, council executed the lease for that facility a few months ago. And the final tenant is the clean technology demonstration center, and that would be a facility to showcase new technology nearing commercialization. It will be -- it currently is undergoing a business plan, being

developed by the Office of Economic Development and it would be a place to display, develop and deploy emerging technology, especially energy efficient technology and renewable energy solutions. The CTDC will be about 26,000 square feet of this facility, it will be flexible adaptable space and will also include training and conference space. So the actions we're recommending today are to execute the closing documents and the related budget appropriation. Just a little bit about these documents before you. The city team has structured this transaction to mitigate risk. We're taking nearly all the key roles in the transaction, the leverage lender, the ground lessor, the master tenant and the developer. We're the first city in California to structure a transaction where we're taking on all these roles, and the fifth in the United States. The agreements are necessary to close the transaction. Their characterized by the five categories we have on the slide. We also issued a supplemental last night to provide some additional detail on some of the city's obligation in these agreements and I'll highlight a couple of those components to you. First of all, for the loan agreement, the city waives rights as a leverage lender to enforce payment or take action on the CDEs during the seven year compliance period. This is to ensure that tax credit proceeds stay in the project. We also did, with the lease agreements, we will be using the revenue from our subtenants to meet our rent obligation. The rent obligation comes back to the city in form of loan payments. In the remote case there is an issue where the CDEs or the Qalicbs need some funds to do some ongoing compliance they will use that money and then will use our budgeted base budget to cover those expenses. This is an extremely remote possibility. Staff and our team has established, in addition to the net proceeds, about \$1.3 million of reserves to ensure the CDEs aand the Qalicbs to have everything in compliance during the seven year period. This is above and beyond the normal reserves established in these transactions. And finally just briefly on the put call agreement, this is standard for new market tax credit transaction. It allows the structure to unwind after the seven year compliance period. We would, if we did chase moves forward with the put we would pay \$1,000 and the transaction would unwind. If chase doesn't issue the put the city can call the agreement and we would pay the fair market value. The city can also do nothing and just continue to pay the rent and receive the loan payments back to the city. If -- it's very unusual for the bank not to issue the put. We don't know of a case that that's happened in the new market tax credit transaction and it's extremely rare in other tax credit transactions. Next steps. We today for your consideration, the closing documents, we plan to close by the end of this month. We would also bring you for consideration the household hazardous waste operating agreement by May of this year. We are -- Office of Economic Development is leading the development of the CTDC business

plan and that project was brought to the Community and Economic Development committee yesterday for an update. The construction on our project is expected to be completed in late 2012. Occupancy in early 2013. And we don't owe our first payment until 2013-14. And with that we'd like to open it up for any questions.

>> Mayor Reed: I have one question, on page 14 of the October 11th staff report, there's a statement that staff anticipates the revenues from restoring household hazardous waste operations to be the operating expenses. If they don't, and this is a very long term deal, and if one of those tenants disappears, what fund is at risk if we lose say the re-store or something after five or six years?

>> We would simply make the pavement out of the environmental services department base budget and then we'd get the loan interest payment paid back to us about ten days later. Which would offset the rent payment.

>> Mayor Reed: But eventually we might have to go out and find another tenant ultimately to help offset?

>> Yes, we could do that.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I raised that same question when this was offered at CED. The restore and hazardous waste facility there which you would anticipate be needed there for decades to come if not many years to come, that staff and management of the facility immediately continually, even though there is some sense of security, that they continually work on further sponsorships and tenants and don't kind of rest on the fact that we feel we have some sense of security in the initial years but rather see what we can do about generating as much resource as possible and create a situation where there's a demand to get in there so if the situation occurs you lose a tenant that you have someone already lined up to move in there. And I think that this type of facility can lend itself towards that in the way that it's being set up. And the other thing that I mentioned at the previous meeting the committee meeting which I'll reiterate here, it is a great opportunity for San José to market our assets as a city. In order again for people to be coming here to the demonstration site not only do we have an

opportunity to demonstrate and have available products that are built here in San José with San José companies but we have an opportunity with our Office of Economic Development of attracting more opportunities and jobs to San José in some of the things we're doing. So OED should have in some sense a permanent presence there as an opportunity to try to attract further companies to the city and thereby create jobs for our residents.

>> Mayor Reed: I have one request to speak. We'll take that now. Mr. Wall.

>> David Wall: You'd be better off if you put a roulette table out here and put your money on it. Let's be real, Mr. Mayor. Today we've discussed repertory theater, retirement bailouts that you didn't fund, street repairs that you didn't fund. A massive deficit that's putting the city on the verge of bankruptcy and yet you tout today that spending over 20, \$30 million in a financial system, this new market tax credit is a very sophisticated financial instrument. And you're going to try to convince the taxpayers that you know what you're doing? This thing, when it collapses, and it will collapse financially, because there's no discussion really about international markets. The London interbank transfer funds. There's nothing of that talked about. And yet, we're here today to utilize the sewer service and use charge, integrated waste funds the storm drain funds to create this edifice, a Sinatap, a monument of environmental stew pied did I under the guise that it will create jobs or some corporate bailout is just irresponsible. And Mr. Mayor it is my personal opinion, the management of the environmental services department is so incredibly incompetent that it bears description. Subsequently Mr. Mayor, your water plucks control plant is on the verge of collapse and yet you want to entertain this type of project. This is as close to a legal Ponzi scheme as it gets. Now, if you really are interested in this, put a rider that you're willing to forfeit all of your personal properties. As collateral. Thank you.

>> Mayor Reed: Thank you. That concludes public testimony. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. several months ago?

>> We -- the issues we brought up to council in the May memo are the same issues we worked to resolve and resolved as we discuss in there memo so there's nothing substantially changed between what we characterized in May and June and now.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: I think that concludes our discussion and I think we have a motion, if I'm not certain. I might get confused. We have a motion? We do not have a motion. Now we have a motion to approve. Further discussion on the motion? On the motion and second? All in favor? Opposed? One opposed, Oliverio, one absent, so that would be Liccardo. Motion carries. That is approved. Thank you very much. Go get it closed. Almost there. Itemsen.2 would be our next item, City of San José community choice aggregation, initial feasibility study and recommendations, results. Let staff take a minute to get in place, Councilmember Herrera. Okay, will there be a staff presentation? Yes, there will, I guess. All right.

>> Good afternoon, good afternoon, are Kerr 8 Romanow, acting ashwini Kantak with the manager's office and our energy program manager Mary Tucker. Today we'd like to do repeated presentation although abbreviated presentation we made to transportation and environment committee. While we are not recommending pursuing this program any more we are recommending monitoring and continuing mary Tucker.

>> Good afternoon, Mary Tucker, energy program manager for the City of San José. As Kerrie said our recommendation is not to move forward with the community choice aggregation. We learned an awful lot as we conducted this research. And including the identification of other opportunities for the city to advance its environmental and economic development goals. Staff received council direction in March 22nd, 2011 to explore community choice aggregation as a means of improving economic development, job creation opportunities related to Green Vision goal number 1 and also to achieving goal number 3, in receiving 100% of our electricity from renewable resources and directed us to return to the transportation and environment committee in September of this year. Community choice aggregation at this point is only operated within Marin county within the State of California. So here is an example of how it works. Marin clean energy is responsible for buying and building

supplies, PG&E remains, or the relevant utility remains responsible for delivering the utility, supplying the lines, supplying the customers and providing the energy that is provided by Marin clean energy to the customers. In looking at the research and a lot of the ways that we could meet Green Vision goal number 3, we identify that we could attain -- have many more solar electricity generation within the city. We are currently at 38.1 megawatts throughout the entire city of pending and installed. We could work with the California Public Utilities commission and other stakeholders to expand the feed in tariff programs or direct access which allows stakeholders to purchase green electricity policies or to development and implement community choice aggregation. The research we conducted explored the potential benefits associated with community choice aggregation, and initiation of this would definitely enable the city to meet Green Vision goal number 3 and other economic development goals. There is the potential for reduced electricity rates but in our research we identified that for both Marin and some of the other organizations such as Sonoma and San Francisco that are looking at this, there is the potential for having increased rates associated with the purchase of electricity through community choice aggregation. The area within which community choice aggregation provides the most benefits is in the area of greenhouse gas reductions with other entities indicating that an almost 50% reductions are a result of use renewably generated activities fops several issues that we believe need much more analysis as listed in this slide and more fully explained in the report. The development of an effective and successful community choice aggregation program is a complicated and rigorous effort that can entail many costly and uncertain aspects including up front costs associated with planning starting up the programs the potential opposition from an incumbent utility and uncertainties related to a project of this scale in the current economy. Development of these analyses involve significant up front costs, dedicated staff and consultant expertise and resources. We believe that there are some alternative activities that could be conducted to increase the use and installation of renewable energy systems and provide more economic development within the area. Direct access, an option that would allow eligible customers to purchase their electricity directly from competitive energy service providers, recent CPUC decisions and associated laws nonresidential customers but these have really gone away very quickly when they are opened up at the CPUC and respective utilities. Another alternative is for increasing feed-in tariffs, a feed-in tariff would allow more reasonable contract for electricity sales, rooftop installations would be built to provide the maximum power that would be available rather than only power in the buildings. And the smart grid as electricity delivery system would be able to increase the number of renewable resources, because they would

then, the customer, excuse me would be able to sell their excess power seamlessly through this smart grid. So with this preliminary research and analysis, we are recommending that we monitor community choice aggregation efforts at a time when it would be more valuable and cost effective within the city, and return to the council with a work plan, should the key uncertainties and benefits change. And we're recommending that we explore other areas to work with stakeholders throughout the community to advance the City's Green Vision goals particularly related to renewable energy and economic development. And with that we are open to any questions.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. And thank you, Mary, very much for the report. I had the opportunity to go with Mary, and up to San Francisco to meet with the CPUC. And Paul Clannon the executive director to learn more about CCA. I was interested in it because ways -- had some hope that perhaps we could -- the city could play a more major role in being able to control costs. For potential commercial customers so that we could have another you know tool in our tool kit here to attract companies, to keep companies here. Much in the same way some of our neighboring cities have. It was a bit disappointing when we got up there and heard the experience, Marin's experience because it didn't look like it was going to really reduce costs for our customers. I do think in the future and I'm certainly not going to propose anything -- I'm going to support the staff's recommendation, I do have some questions about some of the other aspects of it but I just think in the future we need to look at CCA again. I think there are startup costs associated with it, there is challenges but I think down the road if we can get to a point where it is -- we get past those initial startup kinds of things that there could be potential for this. And I think other cities are looking into it. I know San Francisco is, is moving ahead with it. I don't think it is the right time for us in terms of the cost benefit analysis right now. But I'm glad to hear that we are going to keep monitoring it. I did have -- I was also really interested in learning about direct access and feed-in tariffs. And looking at the smart grid demonstration products which I think will have a great future now with our new demonstration center. So those are all great things. But I have some questions on the report in terms of solar and in helping expand solar. Because as Mary we were there and heard about and we have all heard about the goals for having greater, you know, having more alternative energy and solar projects the governor certainly has very high goals for that. And so there's a lot of interest I think in seeing how we can increase that in San José. So

I was looking at your report on page 4 in the matrix and I noticed the smallest piece of the puzzle is the commercial nonprofit nonresidential development. It appears we have .7 megawatts of pending commercial solar project and that concerned me. So I wanted to hear some feedback from staff on that. And I want to know, is there any way to streamline our process to encourage commercial nonresidential solar development? So if you could just comment on maybe why there's so few there because I'm looking at that as a major way to achieve our goals.

>> We continue to work with on our business sector in ways they may install solar and reap benefits associated with that. Later next month on November 16th the Office of Economic Development is hosting a commercial pace seminar, Scott Green is leading that through OED, what tools they might need from financing mechanism from permitting from a variety of ganlts what they would need from the City of San José to encourage more solar or facilitate more solar, we'll continual to track that. We agree that it's an important part of our renewable energy portfolio but also an important part of attracting and maintaining businesses here in San José.

>> Councilmember Herrera: Is there a goal to have that more equalized in terms of commercial versus residential, is that a -- is there any kind of a goal in terms of targets for that or --

>> We have not set a metric for that and we would like to increase both and certainly with the final oivetd of hitting the Green Vision markers.

>> Councilmember Herrera: Do we track commercial projects now pending commercial projects the way that we do in the Planning Department, tracks other projects are they tracked at all doing that? Maybe that's the planning department.

>> Planning Department keeps a record and that's how we keep track of the commercial sector installations but also residential but we also get information from the California Public Utilities Commission on installations.

>> Councilmember Herrera: And are there any public-private partnerships to develop solar that we can use to meet our goals?

>> So we are always working with different companies. In terms of public-private partnerships we just had a little project done on City Hall with a company the solar clovers and we kind of constantly look to partner with different people to demonstrate different technologies in solar. So I think we follow that route in terms of as Kay mentioned, I think in terms of just inviting more interest, the panel next month should really help that. We have a lot of people interested in the public and private sector and so we hope to kind of engage people and then follow up with more conversation on how we can partner.

>> Councilmember Herrera: Because I'm thinking some of these partnerships can potentially drive the cost of solar down, could help do that.

>> Sure, as we work with them to kind of demonstrate their new technologies, definitely.

>> Councilmember Herrera: And finally I was looking at attachment B and first of all I -- you know this is great and I like what we're doing here and really, no -- I'm not trying to be too critical but I did -- was concerned that going forward, I think it would be helpful to have a few more private industry representatives on -- you know when we're doing outreach and getting their opinion. So -- I think that would be helpful.

>> And we completely agree with that. This was our initial path to determine whether or not additional inquiry made sense and certainly next step would include a much broader audience.

>> Councilmember Herrera: Great. And so I'd -- given that we're anticipating the solar America grant going away, I think, and can you maybe come back to T&E with a work impact analysis regarding the exploration of alternatives such as smart grid feed in tariffs direct access and partnerships with CPUC? And PG&E?

>> We can certainly come back through T&E or as part of our Green Vision work plan.

>> Councilmember Herrera: Great. So I would like to make a motion to move the staff's recommendations asking this to consume back to T&E with questions I've addressed to staff.

>> Mayor Reed: Motion and second. Councilmember Kalra.

>> Councilmember Kalra: Thank you. You know CCAs and I know that's why we analyze it have a great potential, I believe when you're aggregating usage with a whole bunch of business and residential and both, CCAs are in operation in a couple of different parts of the country as well. It talks about Marin and the two on the East Coast, whether they've had some cost-saving involved?

>> We do have some information in there on the cost-savings.

>> Councilmember Kalra: Maybe I missed it in the report. I saw the Marin energy authority cost savings and if you can just talk about cost savings for the ones in the Northeast corridor.

>> Are you talking about the Northeast Ohio energy council and the cape light compact?

>> Councilmember Kalra: That's right.

>> Those entities we can provide you with some more detail on the case studies we received on those entities. But a lot of them were able to achieve savings in their energy rates and their electricity rates.

>> Councilmember Kalra: That's what I suspected. I know when California first set the goals of 20% in 2010 for renewable, requiring renewable for energy source PG&E objected. Now there's been put on the table 33% by 2020. PG&E objected. Sween trying to put in a PG&E suit. So PG&E I know has been a great obstacle in San Francisco in their efforts. When we talk to collaborate and PG&E those two words don't go together when it comes for the scoompletion the residents to save money on energy. They are going to hold on to their monopoly

as much as they possibly can. startup cost and so we're going to at this point set it aside, you know what other opportunities are there for funding given the fact that not only does this have great environmental benefits, and potential, but it really does have great cost-saving potential as been evidenced by those that have been operating it that don't have PG&E meddling for what they have to do and be an obstacle every turn? So as PG&E the discussions at CPUC I imagine PG&E has raised some objections or concerns with San José's analysis or with CCA in Marin, is that -- can I assume that that's correct?

>> Yes.

>> Councilmember Kalra: And so in the role in this analysis here has PG&E played a role in the analysis here as well? As far as objecting to it or raising concerns?

>> PG&E was one of the organizations that we sat down with. And they did express concern about moving forward. Your path forward I think from a financing standpoint would be to look for additional grants to fund those startup costs. When we key about external sources of funding to pay for those startup costs. Since we would be hard pressed taking General Fund money to invest in this. But we have been very successful, Mary in particular in securing additional external funding for energy related activities. So we'll continue to scan the market for those. And if we find something that looks like it makes sense we'll chase that down and bring it forward as an opportunity to move np.

>> Councilmember Kalra: Because some of the other measures, many of which PG&E is objecting to as well, as to the options for how we can reach our goal of use of renewable energy, they're also not only be objected to by PG&E or it's uncertain as to how or if we can get energy savings or cost savings for our residents through those. And so to shelf this and say monitor what's happening on this type of arrangement is not strong enough for me I won't support if motion. I think we should be much more aggressive on how we approach the CCA. I don't suggest we spend a half million dollars on it but if we are waiting to see what other jurisdictions are going to do with it, with PG&E continuing to be an obstacle while major problem for me and I think that we should be much more proactive in how we approach CC and As.

>> Mayor Reed: .

>> Councilmember Rocha: Thank you, mayor. Hi some of the same thoughts that my colleague Councilmember Herrera had also when I was looking through the report and looking for more of the private sector engagement of this. You spoke a little bit about it but could you maybe expand why the group that was list he you didn't start there as part of the effort ?

>> We met with the Silicon Valley leadership group. And they were, you know, to present to them, some of our research activities. They were able to direct us to a couple of the local companies within the area. Excuse me I'm getting -- so we had some initial research. And discussions with them. Particularly around the issues of opting out. There are several large companies within the San José area that already have direct access, and are purchasing power and they just wanted to make sure that they would be able to continue to have that ability. But in the limited amount of time, we focused on presenting a broad overview of community choice aggregation. And saw that we would then, in looking at the other areas, have the opportunity to have more discussions with the commercial sector.

>> Councilmember Rocha: Okay, then would I as part of the motion I guess I would like to strongly encourage that the next go-round or the next effort that we engage in and report that we really make a concerted effort to look at that part of the equation. Because I can't imagine us moving forward with our limited resources, we're going to need the private sector. To me that's priority 1 and I assume you already recognize that, so I'm probably just preaching to the choir here. I did have a question of how we engage the private sector. As far as their efforts, there could be private companies that are moving in this direction without us, and without any collaboration or partnership or knowledge. Are we making an effort to try and support those efforts, or are we just generally working within our own silo?

>> We are definitely not working in a silo. We are talking to a variety of those folks. Particularly in -- I'm losing it.

>> Councilmember Rocha: Sorry.

>> One of the areas that we've been exploring is to implement a CCA it would have to be sponsored by a local government. But we have talked about how we might be able to partner with another group to do a broader offering. So whether or not it turns out to be CCA, it could be large group purchases, it could be lots of different approaches with the goal being to not only increase the installation of the renewable energy but also to reduce cost to businesses. So one idea, based on the feedback today, is we can bring that to our November 16th meeting, to talk about commercial pace, and also ask a couple additional questions around CCA and other interests for the commercial sector since that is focused on that particular segment.

>> Councilmember Rocha: Okay, I'll be a little more specific in my follow-up. For example at a meeting with a representative of republic solar highways. And I know our role as a public agency is not to support one particular company so that's not my point. My point is just if there are efforts going on out there to try and support those efforts because at the end of the day it may ultimately be beneficial to the City of San José or to the residents of San José. So as long as you're looking for those opportunities one for partnership, two to encourage and three to support, then I'm comfortable with -- that we're on the right direction and I know we're very early in the process and we've got a long way to go and there are still a lot of unknowns and a few of them were raised here today and with that I'll end the question. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Points have been covered, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I thought I was hearing a friendly amendment coming from Councilmember Rocha but I want to add it anyway. So I raised it too, this point of involving the private sector in terms of the outreach. In terms of the solar highway if I'm not mistaken and that's actually a partnership of VTA. So I don't know if you're

familiar with that. Again not supporting that specific project but I think it's really important that we know what's out there and if there's something we can, if we can support sort of all of the projects that are moving in a particular way, that are helping us achieve our goals, and in boosting up this idea of the commercial side, I think that's really important. So I think that's very important. And I had one other. I'm also concerned with Councilmember Kalra's comments about CCA and putting on the shelf. I think that's not the intention of my motion. My motion is to recognize the fact that we do not have the funds to go forward with it. But I certainly would support the idea of looking elsewhere for other funding. I think we do want to move forward. I just think that we can't commit General Fund money to it right now. But I very much agree with the comments that Councilmember Kalra expressed. And so I think that it's certainly something we need to move forward with. But all these other programs as well. Because we need to get to the point where we have a little more control over our own destiny in terms of achieving the Green Vision goals and control of our own destiny in regard to energy.

>> Mayor Reed: I had a couple of comments to wrap this up. The first is, a really big red flag in this for me. In the staff report page 13, impacts on the City's electricity franchise fees and utility taxes. Not only do we not have 500,000 to a million dollars to do the feasibility study, we can't afford to give up 3 million dollars for franchise fee we are desperate for the money. we're never going to be able to afford this. It is like Muni water. We used to get money transferred out of Muni water but we can no longer do that. So it's cost us a few million dollars a year we've just shot ourselves in a foot with a really big hole. So unless something changes on that that's just a huge problem. Because we can't afford to spend \$3 million a year or \$6 million a year, we just can't do that. And then the other red flag for me was about the credit market and the CCA's success is dependent on market success bond sales, financial mechanisms, somebody is going to have to spend a lot of money and I don't want to see the General Fund on the hook for those kinds of obligations. So if there -- if it involves getting the city on the hook to borrow money to build power plants or anything else or transmission, again we're not going to be able to afford that. So I'm going to support the motion. I think this is an interesting idea with some merit but it does have some red flags in it for us just purely on financial measures. Perhaps they're moot at this point because we don't have the money to get started but with that I think we're through with a discussion but I have one request to speak. Mr. Wall.

>> David Wall: This incompetent presentation, has cost everybody in this room 30 minutes of their life and an additional two minutes for me to tell you about it. Mr. Mayor, if you knew these financial calculations from the beginning which I believe you do because you're a smart guy, why in heck didn't you put some input to the City Manager to say hey, why don't you just cancel this project outright? The reason this project is cancelled is because of what you've said. But even more so, it's because it's stupid. The only people that could actually benefit from this would be the City of Santa Clara because they have a power plant and they have offered to sell power to the water pollution control plant. To augment the operational cost. But even so Mr. Mayor, one of the biggest problems with decision making around here is, you're appointing councilmembers to this same committee like T&E and CED. These committee councilmembers should have stopped this dead in its tracks a long time ago. Secondly, the City Manager should have looked at the cost of this investigation or this experiment into foolishness and realized the amount of cost with reference to some established \$250,000 limit of decision making. Even though it's not a contract per se it is a contract in that you're dealing with the public's trust. We have seen substandard answering of questions to staff by councilmembers and we have also seen pandering by councilmembers through the audience here today and to the TV cameras at home, to the people at home and which the councilmembers really don't understand what they're talking about and that gets to the impetus of what you just voted for earlier account the competence bogus plan. Thank you.

>> Mayor Reed: That concludes the public testimony. I think we are done with the council discussion. We have a motion to approve with the, I guess the friendly amendment made by Councilmember Herrera. All in favor? Opposed? I count one opposed, Kalra, one absent, Liccardo. So the motion carries. That takes us last item of the day to the open forum. Please come on down when I call your name so you're close to the microphone. Jerome Mills Martin Chung Mike Samson. who wants to go first?

>> This gentlemen right here.

>> Mayor Reed: Okay.

>> Good day, mayor redmonde. My name is Mike Samson and I'm here to represent the cannabis club golden state and I understand that trying to close cannabis clubs down and I'm a veteran and I benefit from the cannabis clubs and they benefit me by giving me medication should I have to have it. Should they close these clubs down, one of the better clubs what are all the other patients going to do? That's going to create a lot of confusion you know, and can I see you know, the chaos now. I am saying that if they could somehow hold on closing this club, to golden state it has to be 60 feet away from the park, it's not 60 feet it's right on the corner. I understand that they are going to close this club, what am I going to do in they close this club? I have to go all over town to see where I get my medication? I'm asking for safe access for cannabis clubs, safe access for what they have. What I gather they're goods to close the one I'm talking about right now, right there on first street where VTA office is. That's the one I usually go to all the time. If they close that one I'm dead. I'm trying to stay afloat and stay out of trouble and not be a problem to the city or you know. And.

>> Mayor Reed: Sir your time is up.

>> Yes, sir. Thank you.

>> Mayor Reed: Jerome Mills, Martin Trung, Gelvea Grung.

>> Sorry I'm not dressed up. I've been getting arrested, a lot so I apologize for nap I'm Jerome millions, security I'll try to keep this as succinct as possible. I'm not really here to hash out the bureaucratic oppression by representatives. I'm not here to discuss the growing disdain from the political advocacy allowing this bureaucrat to stifle our free speech coming from your guys constituency. I'm not here to tit-for-tat or and not a verb of being. I'm here to extend myself as one of the people on the security team to try to get some help with our occupation to try to make it as safe as possible. Thank you.

>> Mayor Reed: Martin Truong, Delvia Gran Joseph Setrasa rvetion glps municipal code regarding the placement of structures on City Hall plaza by the occupy Wall Street movement. May I remind you of the commercial equipment lining the Santa Clara street side of the plaza in the form of newspaper racks. Why are

those structures allowed to remain when Lee Truong made a stand here as well and continued to do so for over a month without threat of arrest or confiscation. What is the intent behind removal of visible symbols of officials should be concerned about the conditions of various other conditions neerp city and more essential use of resources. Protests do not happen in a vacuum. It's not quite free speech when nobody can see or hear you. It appears somebody in this chamber doesn't recognize the difference between a demonstration and a camp out. I respectfully request as a resident of San José that the residents of the occupy comfort and now their liberty and possessions in peacefully exercising their rights of peaceful assembly in our city. Thank you.

>> Mayor Reed: Laura Allen.

>> Good afternoon, my name is Gil villa grand, and mayors gang prevention task force. I'm a member of occupy San José. I have been appointed by occupy general assembly as liaison with the city to clarify our purpose, goals and resolve city hall plaza. You may see occupy San José as a problem to be solved by repeated arrests at 3:00 a.m. claiming that we are a public nuisance with camping litter rats and public urination. Glps we are not camping. We are occupying a minor corner of our City Hall plaza as a free speech mesks manifestation we occupy for all Americans who are not billionaires for our own San José police officers and firefighters and other city employees who have lost their jobs and we have lost their valuable services due to vanished retirement investments that have turned our prosperous nation into as you tearity for the 99% without vast ill acquired he wealth. We occupy for everyone in this chamber, in our city, our nation, the so-called class war already happened. We lost. The American dream is beyond the reach for 99% of Americans, but we the people can regain our common will. Join us for the sake of our children and grandchildren and I have a statement for the City Clerk. Thank you very much.

>> Mayor Reed: Joseph Rosas is our next speaker. Joseph Rosas, Laura Allen, Joseph markenstein.

>> Good evening, council, my name is Joseph Rosas a San José native a business owner and a law student at Santa Clara university. As co-chair of the occupy San José security committee, I'm here to request a dialogue with city officials. Regarding our occupation. Our members have been associated with the local transient

population and this is not correct. As a cradle of innovation, it's appalling that city officials refuse to think critically regarding these allegations and others of poor Public Health and Public Safety. I invite the council to take a tour of our site and allow our occupiers to convince you that these allegations are untrue, and that you are all, also part of the 99%. Thank you.

>> Mayor Reed: Laura Allen, Joseph markenstein Laura Zimmerman.

>> Hello, my name is Aaron birn and I've done volunteer work for -- I'm representing golden state --

>> Mayor Reed: Did you put in a card?

>> I'm sorry?

>> Mayor Reed: I didn't call your name. Did you put in a card? I've got people waiting so just fill out a card. Laura Allen, no takers, goas everymarken Stein, okay and then Laura Zimmerman.

>> Hi, Mr. Mayor, and councilpeople. I'm here on behalf of keeping the clubs open. I think it's something that it's better to keep it -- to keep it legal and I wrote this little thing. The spiritual use of cannabis is to be used in the national science practiced by Frederick Ann twain Mesmer need to be freed, in his own terms, from vaip ourous medical melancholy. and one would have to be omniscient to catalog them all. It suffices to say that today's greatest superstition has been fatalism. Under the form of slippery slope that cannabis is only dope and leads to hopelessness automatically, this is systematically superstitious by inculcating the substance of THC as the couple prit when it' not that goes in that dirties a gent but what gentrifies within him with what is already there for. Therefore, cannabis is good unction body and personal will. Thank you.

>> Mayor Reed: Laura Zimmerman. Mr. Byrne, have a seat. I've got your card but there's a long line in front of you. Laura Zimmerman Thomas Martinez, Corina Reyes, the line is getting shorter, Kia Ochita, Ryan boner, if I call your name come on down, it's your turn.

>> Hello, city council, my name is Bonner, I'm addressing medical marijuana and the new ordinances being imposed in a matter of days. Vice Mayor Nguyen talks about how great it is that polycom is going to create new jobs yet you want to eliminate 1500 direct jobs, 1501 including mine. Now and you want to eliminate those now and you want to close safe and legal businesses which are providing 300,000 in tax revenue at the time the when we are cutting education Social Security and police officers and the funds are scarce. Plus we need those paved roads you guys are talking about. 1930s cannabis away priebtd. 1940s it cast outyou lawed. 1970 Congress said that there was no currently accepted medical use. 1978 they passed the compassionate use act. 1980 they tried, they tried to shut them down and say they couldn't use it. Today they fall for medical cannabis, they still received 300 marijuana cigarettes in a month. 1976 California passes legalizes medical marijuana. 2006, the federal government says that it's still classified as a class 1 narcotic with no medical value and high chance of abuse. 2011, over 269,420 patients in the original 13, what I like to call the 13 green colonies or states, over 83 million Americans in the a survey over the age of 12 have dpitted to using marijuana, have ore 12 million have used in the month before the survey. Similar drugs to marijuana Tylenol, aspirin, glaucoma, antianxiety distress, chronic pain --

>> Mayor Reed: Sorry your time is up.

>> All right thank you.

>> Mayor Reed: Rosalyn Dean, Lauren Linode, David Wall.

>> Good afternoon -- oops. Good afternoon, my name is Rosalyn Dean. I come before you in support of Gil villa grand's statement and in support of the efforts of the occupiers. While our city faces critical budget issues, we're short on money, for basic structural maintenance, like our streets, we're short on money for adequate city staffing, and we have immense pension pressures. And we're short on money for important city services. Why are we wasting money on unnecessary police action? Arresting people in the middle of the night? Taking their possessions. I'm not angry at the police. They're just following orders. My irritation is to those people giving those

orders. And so I would strongly suggest to whoever is giving orders to the police to arrest and harass to please stop it. Thank you. [applause]

>> Mayor Reed: Lauren Renode, David Wall and Elaine Brown.

>> Hi my name is Lauren Renode, I live about three miles away from here in Willow Glen and I'm here to support the occupiers. This is an international populace movement. The occupation here in San José is clean, it is peaceful, it is orderly, it is poor use of city resources to continually shut it down nearly every night. If you have specific concerns about what you perceive going on in the camps I highly encourage you to come down and talk to people. As seen we have -- there's a security committee, there's self-policing going on and if there are problems people would love to address them with you, directly rather than going through police. Again, it's a poor use of city resources to do so. I strongly believe that the decision to repeatedly arrest peaceful protesters should not be made in the dark. I mean that literally and figuratively, it should be discussed rather than happening through selective enforcement of laws that are on here so I know that you cannot directly address this now because it was not on the agenda but I encourage you to somehow bring this issue forward and have a real discussion about it. Thank you.

>> Mayor Reed: David Wall. [applause]

>> Mayor Reed: Elaine Brown and Mark Duge rks.

>> David Wall: Not many people will understand what I'm going to talk about. There's two additional environmental issues that need to be discussed. One is the nine par property at the water pollution control plant with reference to the anaerobic digester operation that has been permitted for 270,000 tons per year. Mr. Mayor, there is citizens been asking questions, how many garbage trucks per day this will mean coming into Alviso. Basically, it's going to be several hundred per day. It's not environmental at all. But especially with reference to the habitat plan. Now, with the ongoing toxicity at the water pollution control plant with reference to chronic toxicity failures of the final effluent, there is impetus to find out the reasons why this is occurring. I have a

couple ideas. However, what this does reference though to, Mr. Mayor, is the soaking of the taxpayers with the advance water treatment operation that is currently being constructed because unless this toxicity problem is solved, with reference to the final effluent, you will not be able to discharge the brine into the final effluent without violating the NPDES permit. Subsequently you have an exceptionally hard problem to solve and it gets back to the aggregate incompetent decisions by staff at the environmental services department shown here today on a variety of issues that this one at the plant is the granddaddy of them all. I do thank the attorney's office for an excellent set of legal documents with reference to the new market tax credit. That's the only glimmer of hope in that whole project.

>> Mayor Reed: Elaine Brown Mark Dugger Marco Sperera.

>> Good afternoon, my name is Elaine Brown. I'm a Willow Glen resident and I'm also on the legal team of advising occupy San José. The goals of the occupy movement really are very simple. The 99% wish to take back the control of our economy, our political system, and our country from the 1% who have been running it for their own benefit. As a 26 year resident of this city, I am totally mystified by the city and this council's reaction to the occupation. Why are you refusing to even meet with the occupiers in order to establish a safe and well organized occupation? Why have you responded with harassment, arrests, denial of First Amendment rights, and pushed these rights that you readily accorded to the Vietnamese American community when they were protesting. You're wasting our tax dollars with ten or 15 police cars while people in San José are being stabbed and murdered. We were told one night by the police officers that they couldn't come down and respond to a person in the middle of the street because there were only two police cars between here and Alviso yet you managed to get ten cars or 14 police cars out here to refuel four peaceful protesters. It makes no sense. So my question to you is, is it really your intention to align yourselves with the financial institutions who have brought our economy to the verge of collapse, and against the 99% who are trying to re-take control of our economy? Is it really your intention to do this, and make yourselves part of the 1% that has caused so much trouble in our country?

>> Mayor Reed: Sorry your time is up. Mark Dugger, [applause]

>> Mayor Reed: Mark Dugger followed by Marco Sperera and Aaron Byrne.

>> Hi, I've never done this before. My name is Mark Dugger, I'm a retired chef, four star. I'm here to encourage keeping all cannabis clubs open in their current status. I have two points one is capitalist one is personal. The capitalist point is you have all of these clubs functioning theoretically within the regulations, they have not been reduced through natural attrition of capitalization. In other words there are enough customers out there willing to pay top prices, very expensive prices, for this legal necessary medication. Enough people to keep all these clubs open. So how are you going to cut it down to ten clubs and support all these people? That's my personal point and what I'm so scared about is that if I don't have this stuff, if I go without this stuff for 48 hours I'm going to be in the hospital or in an insane asylum. I suffer from bipolar and irritable bowel, the irritable bowel creates incredible pain, sets up incredible crying syndrome with my pain. If there's only ten clubs and more than ten blocks from me I can't get there until 11, somebody is going to see me walking down the street crying my eyes out, they are going to call an ambulance. They're going to shoot me up with morphine, morphine doesn't work and I don't like it, pharmaceuticals don't work because I don't digest things properly. The doctors need to invent something you can smoke. The smoke is the key not the cannabis or the THC it's the smoke that makes it work. The other point is, all these clubs are open. And so if you want to use natural attrition, then use natural regulations, to close the bad clubs down.

>> Mayor Reed: Sorry your time is up.

>> To get ones open and collect taxes.

>> Mayor Reed: Next speaker is Marco Sperera, (saying names).

>> My name is Marco Sperera I'm a homeowner in district 10 and a small business owner. I became part of the occupy San José movement arresting four to five protesters the most disturbing part of this video was, there was a gentleman that was standing with a protest sign around his neck and he was detained and cited. As a San José homeowner and business owner I have to voice my grievance about my tax dollars being squandered to squash

these people's right to peacefully assemble in a campbell California named premier shopping center versus Robbins upheld a right state trespass laws to express peaceful expressive activity in open areas of the shopping center. It begs the question why the City of San José is then intending to exclude peaceful expressive activities and federal constitutional law has obtained this right. I would like to urge the city council to free speech and peaceable activity. Thank you. [applause]

>> Mayor Reed: Aaron Byrne, followed by Tim Bonaman and Pablo Guinness.

>> Hello my name is Aaron Byrne, I'm a cannabis advocate. The other day a woman came in, missing her leg but she was able to get medicine to bring to her grandmother. Her really warmed my heart because her grandmother was a shut in for almost three years and they were so excited she was able to peel a banana by herself and joke and kind of come out of her shell. That warmed my heart to be able to be part of the collective and making sure that people are able to get medicine in a clean and safe environment. It's amazing to me how easy it is for people to judge cannabis patients. Do you suffer from insomnia, migraine headaches, cancer, AIDS, it's easy to judge people when you don't deal with that on a daily basis. These people do not deserve to be treated like criminals. They should have medicine available in a clean and safe environment. It encouraged me and it makes me feel good to see all benefits and all the positive effects that it has on the patients. And I'm looking forward to doing a bicycle delivery service provide a service for patients that can't make it to the collective. Because they're crippled or they have a hard time getting around. Thank you.

>> Mayor Reed: Tim Bonaman and Pablo Guinness.

>> My name is Tim Bonaman, I'm a San José resident. Fairly recent transplant, been living here for six years. Today I'm here as a protester and a member of the occupy San José movement. A lot of the things that have been mentioned today, I agree with. One thing I'd like to add is that I've actually spent a lot of time with these protesters when my work and family commitments permit and these are great people. I mean they care deeply about the future of this community, and the future of this country. And we've heard a lot about innovation tonight. And I think the innovative approach to a civic engagement for a city like San José would be go out there

and talk and listen and you know try to help these folks work it out together. Because that's what they're there for. Despite and overwhelming number of issues both at the national and the local level, they're eager to, you know, come to terms with how do we figure this thing out together. And I think you all should be there and share what you know and listen to what they know and you know collaborate. Thank you.

>> Mayor Reed: Pablo Guinness.

>> Hello, thank you for hearing me. I'm Pablo Guinness, I'm a local -- I work as a Latino outreach activist. I'm also an international software occupy San José, and I have a concern as a citizen of San José, that this action that's being taken is painting the movement here with the same brush as others in the nation, where more harsh action has been taken. We have a newsletter out, that describes the differences and the city has had a mature serious liaison available to them at all times. The allegations about the camp, the nature of them are easily handled during business hours, and to tie up police force that could be used on crime-fighting I find that disturbing, not serving the city well and also, risking legal challenges since we do have seven volunteer lawyers and their civil rights issues, I want every dollar of the city to go to running the city. There is a precedent previously of a Vietnam east man that went on a hunger strike and there was a sit-in that lasted for several weeks and did not draw this kind of action. This is not a an attack on the City of San José, it's about something that happened on a national level and we have reasons to be proud of the way the movement has conducted itself here. I would like to see talks are rhyme with mature liaisons that we can provide to save the city money. Thank you. [applause]

>> Mayor Reed: That concludes the open forum, that concludes our meeting, we're adjourned.